2–25–00 Friday
Vol. 65 No. 38 Feb. 25, 2000
Pages 9995–10372

Federal Register

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $555, or $607 for a combined **Federal Register,** Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $220. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 65 FR 12345.

Printed on recycled paper.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**512–1806**
General online information	**202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**512–1800**
Assistance with public single copies	**512–1803**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	**523–5243**
Assistance with Federal agency subscriptions	**523–5243**

Contents

Federal Register

Vol. 65, No. 38

Friday, February 25, 2000

EDITORIAL NOTE: In the **Federal Register** of February 24, 2000, the entry for Part III of the Separate Parts list was inadvertently omitted from the table of contents:

Part III

Housing and Urban Development Department, 9320-9989

In the same issue, two correction documents listed in the table of contents were also inadvertently omitted:

Federal Aviation Administration

NOTICES

Advisory circulars; availability, etc.:
Transport airplane fuel tank system design review, flammability reduction, and maintenance and inspection requirements; correction,

Federal Energy Regulatory Commission

NOTICES

Applications, hearings, determinations, etc.:
ARCO Products Co. et al.; correction,

These documents are published elsewhere in today's issue.

Separate Parts In This Issue

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 65, No. 38
Friday, February 25, 2000

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Parts 1484 and 1550

RIN 0551–AA26

Programs To Help Develop Foreign Markets for Agricultural Commodities (Foreign Market Development Cooperator Program)

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule revises the regulations governing the Foreign Market Development Cooperator (Cooperator) program to reflect that the Cooperator program will now be funded by the Commodity Credit Corporation (CCC) and operated under the authority of the CCC Charter Act.

EFFECTIVE DATE: February 25, 2000.

FOR FURTHER INFORMATION CONTACT: Kent Sisson or Denise Huttenlocker at (202) 720–4327.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule is issued in conformance with Executive Order 12866. It has been determined that this final rule will not have an annual economic effect in excess of $100 million; will not cause a major increase in costs to consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have an adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or foreign markets.

Executive Order 12988

This final rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. The rule would have preemptive effect with respect to any State or local laws, regulations or policies which conflict with such provisions or which otherwise impede their full implementation; does not have retroactive effect; and does require administrative proceedings before suit may be filed.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (see the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115).

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule because the CCC is not required by any provision of law to publish a notice of rulemaking with respect to the subject matter of this rule.

Paperwork Reduction Act

The information collection requirements for participating in the Cooperator program have been submitted for reinstatement to the Office of Management and Budget (OMB). OMB has previously assigned control number 0551–0026 to the information collection and recordkeeping requirements. This final rule does not impose new information collection requirements.

Background

The Cooperator program is designed to encourage the creation, expansion, and maintenance of foreign markets for agricultural commodities. Most recently, the Cooperator program has been operated under Title VII of the Agricultural Trade Act of 1978 and funded by annual appropriations to the Foreign Agricultural Service, USDA. Beginning with fiscal year 2000, the Cooperator program will be funded by the CCC and operated under the authority of the CCC Charter Act. This rule reflects that change by codifying the change in authority, redesignating the regulations currently in 7 CFR part 1550 as 7 CFR part 1484, and by making minor conforming changes to the regulations.

This rule is published as a final rule and is effective on the date of publication because the decision to utilize CCC authority to implement the Cooperator program to the CCC is a matter of agency management.

List of Subjects in 7 CFR Parts 1484 and 1550

Agricultural commodities, Exports, Grant programs—agriculture, Reporting and recordkeeping requirements.

Accordingly, Title 7 is amended as follows:

PART 1550—[REDESIGNATED AS PART 1484]

1. Title 7 of the Code of Federal Regulations is amended by redesignating part 1550, consisting of §§ 1550.10 through 1550.76, as part 1484—Programs To Help Develop Foreign Markets for Agricultural Commodities, consisting of §§ 1484.10 through 1484.76.

2. The authority citation for redesignated part 1484 is revised to read as follows:

Authority: 15 U.S.C. 714c(f).

3. Newly redesignated § 1484.10 is amended by adding a sentence at the end thereof to read as follows:

§ 1484.10 What is the effective date of this part?

* * * The Cooperator Program is administered by personnel of the Foreign Agricultural Service.

4. In newly redesignated § 1484.13, the following definitions are revised to read as follows:

§ 1484.13 Are there any special definitions that apply to the Cooperator program?

* * * * *

Administrator—the Vice President, CCC, who also serves as Administrator, FAS, USDA, or designee.

* * * * *

Project funds—the funds made available to a Cooperator under a project agreement, and authorized for expenditure in accordance with this part.

* * * * *

5. In newly redesignated § 1484.35, paragraph (d)(1) is revised to read as follows:

§ 1484.35 Must Cooperators follow specific contracting procedures?

* * * * *

(d) * * *

(1) Ensure that all expenditures for goods and services in excess of $25.00,

which are reimbursed with project funds, are documented by a purchase order, invoice, or contract;

* * * * *

6. In newly redesignated § 1484.36, paragraph (a) introductory text is revised to read as follows:

§ 1484.36 How do Cooperators dispose of disposable property?

(a) Property purchased by the Cooperator, and for which the Cooperator is reimbursed with project funds, that is unusable, unserviceable, or no longer needed for project purposes shall be disposed of in one of the following ways. The Cooperator may:

* * *

* * * * *

§§ 1484.38, 1484.73, 1484.74, 1484.75 [Amended]

7. In newly redesignated §§ 1484.38, 1484.73, 1484.74(c), and 1484.75, remove the word ''FAS'' and add, in its place, the words ''Commodity Credit Corporation.''

Signed at Washington, DC, on February 15, 2000.

Timothy J. Galvin,

Administrator, Foreign Agricultural Service, and Vice President, Commodity Credit Corporation.

[FR Doc. 00–4168 Filed 2–24–00; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM168; Special Conditions No. 25–156–SC]

Special Conditions: McDonnell Douglas Model MD–10–10/10F and MD10–30/30F Airplanes; High Intensity Radiated Fields (HIRF).

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for Model MD–10–10/10F and MD10–30/30F airplanes, manufactured by the McDonnell Douglas Corporation, now a wholly owned subsidiary of The Boeing Company. These airplanes will have novel and unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. These airplanes will utilize electrical and electronic systems that perform critical functions. The applicable type certification regulations do not contain adequate or appropriate safety standards for the protection of this system from the effects of high-intensity radiated fields (HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that provided by the existing airworthiness standards.

DATES: The effective date of these special conditions is February 15, 2000. Comments must be received on or before March 27, 2000.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM–114), Docket No. NM168, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. Comments must be marked: Docket No. NM168. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Gerry Lakin, FAA, Transport Airplane Directorate, Aircraft Certification Service, Standardization Branch, ANM–113, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (425) 227–1187; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment are impracticable because these procedures would significantly delay issuance of the approval design and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

Interested persons are invited to submit such written data, views, or arguments, as they may desire. Communications should identify the regulatory docket and special conditions number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. These special conditions may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this request must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. NM168.'' The postcard will be date stamped and returned to the commenter.

Background

On February 14, 1997, McDonnell Douglas Corporation (MDC) submitted an application to amend the DC–10/MD–11 Type Certificate No. A22WE to include four new models, MD–10–10/–10F and MD–10–30/–30F. The MD–10 series aircraft are modified DC–10 aircraft with an Advanced Common Flightdeck (ACF), similar to that on the Model MD–11, that will allow operation with a two person flight crew. No changes to primary structures, engines, primary flight control systems, or aircraft performance are being made.

The ACF on the MD–10 series aircraft will utilize electrical and electronic systems that perform critical functions; examples of which include the electronic displays and flight control computers. These systems can be susceptible to disruption to both command/response signals as a result of electrical and magnetic interference. This disruption of signals could result in loss of all critical functions that would prevent the continued safe flight and landing of the airplane.

Type Certification Basis

Under the provisions of § 21.101, The Boeing Company must show that the Model MD–10 series airplanes continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A22WE, or the applicable regulations in effect on the date of application for the change to the Model MD–10 series aircraft. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' Based on the application date, February 14, 1997, the applicable regulations are 14 CFR part 25, effective February 1, 1965, including amendments 25–1 through 25–89, for all areas affected by the change.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25 as amended) do not contain adequate or appropriate safety standards for the Model MD–10 series aircraft because of novel or unusual design

features, special conditions are prescribed under the provisions of § 21.16.

Special conditions, as appropriate, are issued in accordance with § 11.49, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should McDonnell Douglas Corporation, now a wholly owned subsidiary of The Boeing Company, apply at a later date for a change to the type certificate to include another model incorporating the same type certificate to incorporate the same novel or unusual design feature, these special conditions would apply to the other model as well under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

The ACF on the MD–10 series aircraft will utilize electrical and electronic systems that perform critical functions; examples of which include the electronic displays and flight control computers. These systems may be vulnerable to HIRF external to the airplane.

Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground-based radio transmitters and the growing use of sensitive electrical and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the applicable regulations incorporated by reference, special conditions are needed for the Model MD–10 series aircraft, which require that new or significantly modified electrical and electronic systems, such as the electronic displays and flight control computers, that perform critical functions be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground-based transmitters, plus the advent of space and satellite communications coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special conditions is shown with either paragraph 1 OR 2 below:

1. A minimum threat of 100 volts rms per meter electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated.

Field strength (volts per meter)	Frequency	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	50
500 kHz–2 MHz	50	50
2 MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz	100	100
200 MHz–400 MHz	100	100
400 MHz–700 MHz	700	50
700 MHz–1 GHz	700	100
1 GHz–2 GHz	2000	200
2 GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200
6 GHz–8 GHz	1000	200
8 GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

The field strengths are expressed in terms of peak of the root-mean-square (rms) over the computer modulation period.

The threat levels identified above are the result of an FAA review of existing studies on the subject of HIRF, in light of the ongoing work of the Electromagnetic Effects Harmonization Working Group of the Aviation Rulemaking Advisory Committee.

Applicability

As discussed above, these special conditions are applicable to Model MD–10 series airplanes. Should McDonnell Douglas apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain design features on Model MD–10 series airplanes. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of the special conditions for these airplanes has been subjected to the notice and comment procedure in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Model MD–10 series airplanes.

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields external to the airplane.

2. For the purpose of these special conditions, the following definition applies:

Critical Functions. Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on February 15, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 00–4484 Filed 2–24–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ACE–3]

Amendment to Class E Airspace; Cuba, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends the Class E airspace area at Cuba Municipal Airport, Cuba, MO. The FAA has developed a Nondirectional Radio Beacon (NDB)–A Standard Instrument Approach Procedure (SIAP) to serve Cuba Municipal Airport, MO. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate this SIAP and for Instrument Flight Rules (IFR) operations at this airport. The enlarged area will contain the new NDB–A SIAP in controlled airspace.

The intended effect of this rule is to provide controlled Class E airspace for aircraft executing the NDB–A SIAP, and to segregate aircraft using instrument approach procedures in instrument conditions from aircraft operating in visual conditions.

DATES: This direct final rule is effective on 0901 UTC, June 15, 2000.

Comments for inclusion in the Rules Docket must be received on or before April 3, 2000.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, DOT Regional Headquarters Building, Federal Aviation Administration, Docket Number 00–ACE–3, 901 Locust, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2524.

SUPPLEMENTARY INFORMATION: The FAA has developed an NDB–A SIAP to serve the Cuba Municipal Airport, MO. The amendment to Class E airspace at Cuba, MO, will provide additional controlled airspace at and above 700 feet AGL in order to contain the new SIAP within controlled airspace, and thereby facilitate separation of aircraft operating under Instrument Flight Rules. The amendment at Cuba Municipal Airport, MO, will provide additional controlled airspace for aircraft operating under IFR. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9G, dated September 10, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determination whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic environmental, and energy-related aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed stamped postcard on which the following statement is made: ''Comments to Docket No. 00–ACE–3.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is noncontroversial and unlikly to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12877; (2) is not a ''significant rule'' Department of Transportation (DOT) Regulatory Policies and

Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation(air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 10, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the Earth.

* * * * *

ACE MO E5 Cuba, MO [Revised]

Cuba Municipal Airport, MO
(Lat. 38°04′08″N., long. 91°25′44″W.)
Cuba NDB
(Lat. 38°03′55″N., long. 91°25′38″W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Cuba Municipal Airport and within 2.6 miles each side of the 002° bearing from the Cuba NDB extending from the 6.3-miles radius to 7.4 miles north of the NDB and within 2.6 miles each side of the 197° bearing from the Cuba NDB extending from the 6.3-mile radius to 7.4 miles south of the NDB and within 2.5 miles each side of the 211° bearing from the Cuba NDB extending from the 6.3-mile radius to 7 miles southwest of the NDB.

* * * * *

Issued in Kansas City, MO, on February 11, 2000.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 00–4486 Filed 2–24–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 00–AGL–5]

RIN 2120–AA66

Change Controlling Agency for Restricted Areas R–6901A and R–6901B; Fort McCoy, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action changes the controlling agency for Restricted Areas R–6901A and R–6901B from ''Minneapolis Air Route Traffic Control Center (ARTCC)'' to ''Chicago ARTCC.'' This action is being taken due to a realignment of airspace areas under the control jurisdiction of Chicago ARTCC.

EFFECTIVE DATE: 0901 UTC, April 20, 2000.

FOR FURTHER INFORMATION CONTACT: Sheri Edgett Baron, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

Due to the realignment of airspace in the vicinity of R–6901A and R–6901–B, Chicago ARTCC has assumed responsibility for performing the function of controlling agency for these areas.

The Rule

This action amends 14 CFR part 73 by changing the designated controlling agency for R–6901A and R–6901B from ''FAA, Minneapolis ARTCC,'' to ''FAA, Chicago ARTCC.'' There are no changes to the boundaries, altitudes, time of designation, or activities conducted within the restricted areas.

Since this action simply changes the controlling agency for the existing restricted areas, and does not involve a change in the dimensions or operating requirements of that airspace, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

Section 73.69 of part 73 was republished in FAA Order 7400.8G, dated September 1, 1999.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this regulation: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This action is a minor administrative change amending the published designation of the controlling agency for existing R–6901A and R–901B. There are no changes to air traffic control procedures or routes as a result of this action. Therefore, this action is not subject to environmental assessments and procedures under FAA Order 1050.1D, ''Policies and Procedures for Considering Environmental Impacts,'' and the National Environmental Policy Act of 1969.

List of Subjects in 14 CFR Part 73

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for 14 CFR part 73 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 73.69 [Amended]

2. § 73.69 is amended as follows:

R–6901A Fort McCoy, WI

By removing the words ''Controlling agency. FAA, Minneapolis ARTCC,'' and substituting the words ''Controlling agency. FAA Chicago ARTCC.''

R–6901B Fort McCoy, WI

By removing the words ''Controlling agency. FAA, Minneapolis ARTCC,'' and substituting the words ''Controlling agency. FAA Chicago ARTCC.''

Issued in Washington, DC, on February 17, 2000.

Terry K. Brown,

Acting Manager, Airspace and Rules Division.

[FR Doc. 00–4485 Filed 2–24–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29928; Amdt. No. 1977]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAP's) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAP's mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAP's. The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 14 CFR 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Form 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAP's, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. The SIAP's contained in this amendment are based on the criteria contained in the United States Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports.

The FAA has determined through testing that current nonlocalizer type, non-precision instrument approaches developed using the TERPS criteria can be flown by aircraft equipped with a Global Positioning System (GPS) and or Flight Management System (FMS) equipment. In consideration of the above, the applicable SIAP's will be altered to include ''or GPS or FMS'' in the title without otherwise reviewing or modifying the procedure. (Once a stand alone GPS or FMS procedure is developed, the procedure title will be altered to remove ''or GPS or FMS'' from these non-localizer, non-precision instrument approach procedure titles.)

The FAA has determined through extensive analysis that current SIAP's intended for use by Area Navigation (RNAV) equipped aircraft can be flown by aircraft utilizing various other types of navigational equipment. In consideration of the above, those SIAP's currently designated as ''RNAV'' will be redesignated as ''VOR/DME RNAV'' without otherwise reviewing or modifying the SIAP's.

Because of the close and immediate relationship between these SIAP's and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are, impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Dot Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) Does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on February 18, 2000.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation of part 97 continues to read:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113–40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

§§ 97.23, 97.27, 97.33 and 97.35 [Amended]

2. Amend 97.23, 97.27, 97.33 and 97.35, as appropriate, by adding, revising, or removing the following SIAP's, effective at 0901 UTC on the dates specified:

** * * Effective April 20, 2000*

Concord, CA, Buchanan Field, NDB or GPS RWY 19R, Amdt Orig-A, CANCELLED
Concord, CA, Buchanan Field, NDB RWY 19R, Amdt Orig-A
Fresno, CA, Fresno Yosemite Intl, VOR or TACAN or GPS RWY 11L, Amdt 11, CANCELLED
Fresno, CA, Fresno Yosemite Intl, VOR or TACAN RWY 11L, Amdt 11
Fresno, CA, Fresno Yosemite Intl, NDB or GPS RWY 29R, Amdt 23A, CANCELLED
Fresno, CA, Fresno Yosemite Intl, NDB Rwy 29R, Amdt 23A
Logansport, IN, Logansport Muni, VOR/DME RNAV or GPS RWY 27, Amdt 3, CANCELLED
Logansport, IN, Logansport Muni, VOR/DME RNAV RWY 27, Amdt 3
Lake Charles, LA, Lake Charles Regional, VOR/DME RNAV or GPS RWY 5, Amdt 3A, CANCELLED
Lake Charles, LA, Lake Charles Regional, VOR/DME RNAV RWY 5, Amdt 3A
Lake Charles, LA, Lake Charles Regional, VOR/DME RNAV or GPS RWY 23, Amdt 3B, CANCELLED
Lake Charles, LA, Lake Charles Regional, VOR/DME RNAV RWY 23, Amdt, 3B
Kansas City, MO, Kansas City Intl, NDB or GPS RWY 9, Amdt 8, CANCELLED
Kansas City, MO, Kansas City Intl, NDB RWY 9, Amdt 8
Great Falls, MT, Great Falls Intl, VOR or GPS RWY 3, Amdt 16A, CANCELLED
Great Falls, MT, Great Falls Intl, VOR RWY 3, Amdt 16A
Great Falls, MT, Great Falls Intl, VOR or GPS RWY 21, Amdt 9A, CANCELLED
Great Falls, MT, Great Falls Intl, VOR RWY 21, Amdt 9A
Great Falls, MT, Great Falls Intl, NDB or GPS RWY 34, Amdt 16A, CANCELLED
Great Falls, MT, Great Falls Intl, NDB RWY 34, Amdt 16A
Atlantic City, NJ, Atlantic City Intl, VOR or GPS RWY 13, Amdt 3, CANCELLED
Atlantic City, NJ, Atlantic City Intl, VOR RWY 13, Amdt 3

[FR Doc. 00–4489 Filed 2–24–00; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29927; Amdt. No. 1976]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAMs for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S.

Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on February 18, 2000.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instruction Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [AMENDED]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

Effective Upon Publication

FDC date	State	City	Airport	FDC No.	SIAP
02/01/00	GA	ATLANTA	THE WILLIAM B. HARTSFIELD ATLANTA INTL.	FDC 0/0805	ILS RWY 9L, ADMT 6A...
02/02/00	IA	WATERLOO	WATERLOO MUNI	FDC 0/1053	ILS RWY 12, AMDT 8A...
02/02/00	IL	DANVILLE	VERMILION COUNTY	FDC 0/1049	VOR/DME RNAV OR GPS RWY 34, AMDT 4...
02/02/00	NC	ASHEVILLE	ASHEVILLE REGIONAL	FDC 0/1054	ILS RWY 34 AMDT 23D...
02/02/00	NC	ASHEVILLE	ASHEVILLE REGIONAL	FDC 0/1055	NDB OR GPS RWY 34 AMDT 18B...
02/02/00	NM	DEMING	DEMING MUNI	FDC 0/1039	GPS RWY 4, ORIG...
02/02/00	NM	FARMINGTON	FOUR CORNERS REGIONAL	FDC 0/1037	GPS RWY 25, ORIG...
02/02/00	NM	FARMINGTON	FOUR CORNERS REGIONAL	FDC 0/1038	VOR/DME OR GPS RWY 7, AMDT 3A...
02/02/00	NM	HOBBS	LEA COUNTY/HOBBS	FDC 0/1046	GPS RWY 30, ORIG...
02/02/00	PA	CONNELLSVILLE	CONNELLSVILLE	FDC 0/1001	LOC RWY 5 AMDT 2A...
02/02/00	PA	POTTSVILLE	SCHULKILL COUNTY (JOE ZERBEY).	FDC 0/1000	VOR OR GPS RWY 4 AMDT 5...
02/02/00	PA	SELINSGROVE	PENN VALLEY	FDC 0/1002	VOR OR GPS–A AMDT 5...
02/02/00	VA	STAUTON–WAYNESBORO–HARRISONBURG.	SHENANDOAH VALLEY REGIONAL	FDC 0/1003	NDB OR GPS RWY 5 AMDT 9A...
02/02/00	WA	MOSES LAKE	GRANT COUNTY INTL	FDC 0/1027	GPS RWY 4 ORIG...
02/02/00	WA	MOSES LAKE	GRANT COUNTY INTL	FDC 0/1028	GPS RWY 22 ORIG...
02/02/00	WA	MOSES LAKE	GRANT COUNTY INTL	FDC 0/1029	VOR RWY 4 AMDT 6...
02/02/00	WA	OLYMPIA	OLYMPIA	FDC 0/1010	VOR/DME OR GPS RWY 35 AMDT 11...
02/02/00	NM	DEMING	DEMING MUNI	FDC 0/1040	GPS RWY 26, ORIG...
02/02/00	NM	DEMING	DEMING MUNI	FDC 0/1045	VOR RWY 26, AMDT 9...
02/03/00	AZ	PHOENIX	PHOENIX SKY HARBOR INTL	FDC 0/1115	VOR/DME RWY 26L AMDT 1...
02/03/00	CA	LONG BEACH	LONG BEACH (DAUGHERTY FIELD).	FDC 0/1077	NDB RWY 30, AMDT 9A...
02/03/00	CA	LONG BEACH	LONG BEACH (DAUGHERTY FIELD).	FDC 0/1078	VOR OR TACAN OR GPS RWY 30, AMDT 7A...
02/03/00	CO	MONTE VISTA	MONTE VISTA MUNI	FDC 0/1111	VOR/DME OR GPS–A AMDT 2...
02/03/00	CO	PUEBLO	PUEBLO MEMORIAL	FDC 0/1112	ILS RWY 8L AMDT 22...
02/03/00	MI	FLINT	BISHOP INTL	FDC 0/1073	ILS RWY 27, AMDT 3...
02/03/00	NM	HOBBS	LEA COUNTY/HOBBS	FDC 0/1085	GPS RWY 21, ORIG...
02/03/00	NM	HOBBS	LEA COUNTY/HOBBS	FDC 0/1089	GPS RWY 3, ORIG...
02/03/00	NM	RUIDOSO	SIERRA BLANCA REGIONAL	FDC 0/1094	GPS RWY 24, ORIG...
02/03/00	NM	RUIDOSO	SIERRA BLANCA REGIONAL	FDC 0/1096	NDB RWY 24, AMDT 1A...

FDC date	State	City	Airport	FDC No.	SIAP
02/03/00	VA	NORFOLK	NORFOLK INTL	FDC 0/1119	GPS RWY 32 AMDT 1B...
02/03/00	VA	NORFOLK	NORFOLK INTL	FDC 0/1120	ILS RWY 34 AMDT 6C...
02/03/00	VA	NORFOLK	NORFOLK INTL	FDC 0/1121	VOR/DME RWY 32 AMDT 4B...
02/03/00	VA	NORFOLK	NORFOLK INTL	FDC 0/1123	VOR/DME RWY 14 AMDT 2B...
02/03/00	VA	NORFOLK	NORFOLK INTL	FDC 0/1124	ILS RWY 5 AMDT 24A...
02/03/00	VA	NORFOLK	NORFOLK INTL	FDC 0/1125	GPS RWY 14 ORIG–B...
02/03/00	VA	NORFOLK	NORFOLK INTL	FDC 0/1126	NDB RWY 5 ORIG–A...
02/03/00	VA	NORFOLK	NORFOLK INTL	FDC 0/1127	VOR/DME RWY 5 AMDT 4A...
02/03/00	VA	NORFOLK	NORFOLK INTL	FDC 0/1128	VOR/DME RNAV RWY 14 AMDT 4B...
02/03/00	WVA	MOSES LAKE	GRANT COUNTY INTL	FDC 0/1087	VOR/DME RWY 22, AMDT 1...
02/03/00	WY	RIVERTON	RIVERTON REGIONAL	FDC 0/1098	GPS RWY 10, ORIG...
02/03/00	WY	RIVERTON	RIVERTON REGIONAL	FDC 0/1100	GPS RWY 28, ORIG...
02/03/00	WY	RIVERTON	RIVERTON REGIONAL	FDC 0/1102	VOR RWY 10, AMDT 8...
02/04/00	CA	HEMET	HEMET–RYAN	FDC 0/1148	GPS RWY 5, ORIG...
02/04/00	CA	HEMET	HEMET–RYAN	FDC 0/1149	NDB OR GPS–A, ORIG...
02/04/00	CA	LA VERNE	BRACKETT FIELD	FDC 0/1145	VOR OR GPS–A, AMDT 5A...
02/04/00	CA	LA VERNE	BRACKETT FIELD	FDC 0/1147	ILS RWY 26L, AMDT 2B...
02/04/00	IL	ALTON/ST. LOUIS	ST. LOUIS REGIONAL	FDC 0/1166	VOR OR GPS–A AMDT 8A...
02/04/00	TX	NEW BRAUNFELS	NEW BRAUNFELS MUNI	FDC 0/1143	VOR/DME RNAW RWY 31, ORIG...
02/04/00	VA	MANASSAS	MANASSAS REGIONAL/HARRY P. DAVIS FIELD.	FDC 0/1162	GPS RWY 34R ORIG...
02/04/00	VA	MANASSAS	MANASSAS REGIONAL/HARRY P. DAVIS FIELD.	FDC 0/1163	VOR/DME RNAV OR GPS RWY 16R AMDT 7A...
02/04/00	VA	MANASSAS	MANASSAS REGIONAL/HARRY P. DAVIS FIELD.	FDC 0/1164	ILS RWY 16L AMDT 4A...
02/04/00	VA	MANASSAS	MANASSAS REGIONAL/HARRY P. DAVIS FIELD.	FDC 0/1165	GPS RWY 16L ORIG...
02/04/00	VA	NORFOLK	NORFOLK INTL	FDC 0/1158	VOR RWY 23, AMDT 8A...
02/04/00	VA	NORFOLK	NORFOLK INTL	FDC 0/1159	NDB/DME OR GPS RWY 23, ORIG–A...
02/04/00	VA	MANASSAS	MANASSAS REGIONAL/HARRY P. DAVIS FIELD.	FDC 0/1161	NDB OR GPS–A AMDT 8B...
02/07/00	AZ	BULLHEAD CITY	LAUGHLIN/BULLHEAD INTL	FDC 0/1212	GPS RWY 34 ORIG...
02/07/00	AZ	BULLHEAD CITY	LAUGHLIN/BULLHEAD INTL	FDC 0/1245	VOR/DME RWY 34 ORIG–A...
02/07/00	AZ	FORT HUACHUCA-SIERRA VISTA.	SIERRA VISTA MUNI LIBBY AAF	FDC 0/1226	GPS RWY 8 ORIG...
02/07/00	AZ	PHOENIX	PHOENIX SKY HARBOR INTL	FDC 0/1225	GPS RWY 8L ORIG...
02/07/00	AZ	PRESCOTT	ERNEST A. LOVE FIELD	FDC 0/1227	GPS RWY 12 ORIG...
02/07/00	CA	WOODLAND	WATTS-WOODLAND	FDC 0/1224	VOR OR GPS–A AMDT 4...
02/07/00	GA	CALHOUN	TOM B. DAVID FIELD	FDC 0/1236	LOC RWY 35, AMDT 1...
02/07/00	NJ	NEWARK	NEWARK INTL	FDC 0/1238	ILS RWY 4L AMDT 12...
02/07/00	NJ	NEWARK	NEWARK INTL	FDC 0/1248	COPTER ILS/DME RWY 4L AMDT 1...
02/07/00	NV	LAS VEGAS	MC CARRAN INTL	FDC 0/1215	GPS RWY 1R ORIG...
02/07/00	TX	SAN MARCOS	SAN MARCOS MUNI	FDC 0/1218	NDB RWY 12, AMDT 4A...
02/07/00	VA	PETERSBURG	PETERSBURG MUNI	FDC 0/1220	VOR OR GPS RWY 23 AMDT 4...
02/07/00	WA	PASCO	TRI CITIES	FDC 0/1217	ILS RWY 21R, AMDT 10...
02/08/00	AL	MONROEVILLE	MONROEVILLE/MONROE COUNTY	FDC 0/1283	VOR OR GPS RWY 3, AMDT 8...
02/08/00	AL	MONROEVILLE	MONROEVILLE/MONROE COUNTY	FDC 0/1284	VOR OR GPS RWY 21, AMDT 8...
02/08/00	GA	EASTMAN	HEART OF GEORGIA REGIONAL	FDC 0/1268	VOR/DME RNAV OR GPS RWY 2, AMDT 2...
02/08/00	GA	EASTMAN	HEART OF GEORGIA REGIONAL	FDC 0/1269	VOR/DME OR GPS–A, AMDT 5...
02/08/00	GA	EASTMAN	HEART OF GEORGIA REGIONAL	FDC 0/1270	NDB RWY 2, ORIG...
02/09/00	CO	PUEBLO	PUEBLO MEMORIAL	FDC 0/1323	GPS RWY 17, ORIG...
02/09/00	CO	PUEBLO	PUEBLO MEMORIAL	FDC 0/1324	GPS RWY 35, ORIG...
02/09/00	FL	FORT LAUDERDALE	FORT LAUDERDALE–HOLLYWOOD INT.	FDC 0/1306	RADAR–1, AMDT 3C...
02/09/00	VA	NEWPORT NEWS	NEWPORT NEWS/WILLIAMSBURG INTL.	FDC 0/1256	NDB OR GPS RWY 2 AMDT 4B...
02/09/00	VA	NEWPORT NEWS	NEWPORT NEWS/WILLIAMSBURG INTL.	FDC 0/1305	LOC BC RWY 25 AMDT 13C...
02/10/00	GA	AUGUSTA	DANIEL FIELD	FDC 0/1365	RADAR–1, AMDT 6...
02/10/00	GA	AUGUSTA	DANIEL FIELD	FDC 0/1366	NDB OR GPS RWY 11, AMDT 2A...
02/10/00	GA	AUGUSTA	DANIEL FIELD	FDC 0/1367	NDB/DME OR GPS–C, AMDT 2...
02/10/00	GA	AUGUSTA	DANIEL FIELD	FDC 0/1368	VOR/DME RNAV RWY 11, AMDT 5A...
02/10/00	GA	AUGUSTA	DANIEL FIELD	FDC 0/1369	VOR/DME OR GPS–B, ORIG...
02/10/00	TX	MCKINNEY	MCKINNEY MUNI	FDC 0/1343	VOR/DME OR GPS–A, ORIG–A...
02/10/00	TX	MCKINNEY	MCKINNEY MUNI	FDC 0/1344	GPS RWY 17, ORIG...
02/10/00	TX	MCKINNEY	MCKINNEY MUNI	FDC 0/1345	GPS RWY 35, ORIG...

FDC date	State	City	Airport	FDC No.	SIAP
02/10/00	TX	MCKINNEY	MCKINNEY MUNI	FDC 0/1346	ILS RWY 17, AMDT 1A...
02/11/00	CA	BURBANK	BURBANK–GLENDALE–PASADENA	FDC 0/1433	ILS RWY 8 AMDT 35...
02/11/00	CA	CHICO	CHICO MUNI	FDC 0/1393	VOR RWY 13L AMDT 9...
02/11/00	CA	CHICO	CHICO MUNI	FDC 0/1396	ILS RWY 13L AMDT 10...
02/11/00	CA	CONCORD	BUCHANAN FIELD	FDC 0/1397	LDA RWY 19R AMDT 7A...
02/11/00	CA	CONCORD	BUCHANAN FIELD	FDC 0/1400	NDB OR GPS RWY 19R ORIG–A...
02/11/00	CA	CONCORD	BUCHANAN FIELD	FDC 0/1403	VOR RWY 19R AMDT 12A...
02/11/00	CA	FRESNO	FRESNO YOSEMITE INTL	FDC 0/1399	NDB OR GPS RWY 29R AMDT 23A...
02/11/00	CA	MAMMOTH LAKES	MAMMOTH LAKES	FDC 0/1398	GPS RWY 27 ORIG...
02/11/00	FL	NAPLES	NAPLES MUNI	FDC 0/1401	VOR RWY 23 AMDT 6A...
02/11/00	FL	NAPLES	NAPLES MUNI	FDC 0/1429	GPS RWY 23 ORIG–A...
02/11/00	FL	NAPLES	NAPLES MUNI	FDC 0/1430	GPS RWY 5 ORIG...
02/11/00	IN	MARION	MARION MUNI	FDC 0/1417	VOR OR GPS RWY 15, AMDT 9...
02/11/00	NV	TONOPAH	TONOPAH	FDC 0/1394	GPS RWY 15, ORIG THIS CORRECTS FDC NO–TAM 0/0960 IN TL00–05.
02/11/00	WY	RAWLINS	RAWLINS MUNI	FDC 0/1407	VOR OR GPS RWY 22, AMDT 1...
02/14/00	OH	CLEVELAND	BURKE LAKEFRONT	FDC 0/1477	ILS RWY 24R ORIG...
02/15/00	CA	ARCATA–EUREKA	ARCATA	FDC 0/1495	ILS/DME RWY 32 AMDT 1...
02/15/00	CA	BURBANK	BURBANK–GLENDALE PASADENA	FDC 0/1534	VOR OR GPS RWY 8 AMDT 10...
02/15/00	CA	BURBANK	BURBANK–GLENDALE PASADENA	FDC 0/1535	LOC RWY 8 AMDT 2...
02/15/00	CA	BURBANK	BURBANK–GLENDALE PASADENA	FDC 0/1536	NDB RWY 8 AMDT 2...
02/15/00	CA	CHICO	CHICO MUNI	FDC 0/1509	VOR/DME RWY 13L AMDT 7...
02/15/00	CA	CHICO	CHICO MUNI	FDC 0/1517	VOR/DME RWY 31R ORIG–A...
02/15/00	UT	OGDEN	OGDEN–HINCKLEY	FDC 0/1541	VOR RWY 7, AMDT 5A... REPLACES 0/0869
02/15/00	WY	RAWLINS	RAWLINS MUNI	FDC 0/1503	NDB OR GPS–A, AMDT 9...
02/16/00	GA	CALHOUN	TOM B. DAVID FIELD	FDC 0/1584	NDB OR GPS RWY 35, AMDT 1...

[FR Doc. 00–4488 Filed 2–24–00; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29926; Amdt. No. 1975]

Standard Instruction Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for

examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (NFDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on February 18, 2000.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective March 23, 2000*

Blanding, UT, Blanding Muni, NDB RWY 35, Amdt 7, CANCELLED

** * * Effective April 20, 2000*

Birmingham, AL, Birmingham Intl, NDB OR GPS RWY 6, Amdt 30B
Birmingham, AL, Birmingham Intl, NDB RWY 24, Amdt 16B
Birmingham, AL, Birmingham, Intl, GPS RWY 36, Orig-A
Dillingham, AK, Dillingham, VOR/DME RWY 19, Amdt 5A
Dillingham, AK, Dillingham, LOC/DME RWY 19, Amdt 4A
Kotzebue, AK, Ralph Wien Memorial, GPS RWY 26, Orig-A
Nome, AK, Nome, VOR/DME BC RWY 9, Amdt 1A
Nome, AK, Nome, VOR RWY 27, Amdt 1A
Nome, AK, Nome, LOC/DME RWY 9, Amdt 1A
Nome, AK, Nome, NDB RWY 27, Amdt 1A
Nome, AK, Nome, GPS RWY 2, Orig-B
Nome, AK, Nome, GPS RWY 9, Orig-B
Nome, AK, Nome, GPS RWY 27, Orig-B
Yakutat, AK, Yakutat, GPS RWY 2, Orig-A
Yakutat, AK, Yakutat, GPS RWY 11, Orig-A
Yakutat, AK, Yakutat, GPS RWY 29, Orig-A
Little Rock, AR, Adams Field, GPSs RWY 18, Orig-B
Texarkana, AR, Texarkana Regional-Webb Field, VOR OR GPS RWY 13, Amdt 15A
Texarkana, AR, Texarkana Regional-Webb Field, GPS RWY 4, Orig-A
Texarkana, AR, Texarkana Regional-Webb Field, GPS RWY 22, Orig-A
Texarkana, AR, Texarkana Regional-Webb Field, GPS RWY 31, Orig-A
Payson, AZ, Payson, GPS–A, Orig
Concord, CA, Buchanan Field, GPS RWY 19R, Orig
Concord, CA, Buchanan Field, NDB RWY 19R, Amdt 1
Fresno, CA, Fresno Yosemite Intl, GPS RWY 11L, Orig
Fresno, CA, Fresno Yosemite Intl, GPS RWY 29R, Orig
Los Banos, CA, Los Banos Muni, VOR/DME OR GPS RWY 14, Amdt 4
Denver, CO, Centennial, ILS RWY 35R, Amdt 8
Denver, CO, Centennial, CDB RWY 35R, Amdt 10
Denver, CO, Centennial, VOR/DME RNAV RWY 28, Amdt 1
Apalachicola, FL, Apalachicola Muni, NDB RWY 13, Amdt 1
Apalachicola, FL, Apalachicola Muni, NDB RWY 31, Amdt 1
Fort Lauderdale, FL, Fort Lauderdale-Hollywood Intl, LOC RWY 9R, Amdt 4
Fort Lauderdale, FL, Fort Lauderdale-Hollywood Intl, VOR OR GPS RWY 27R, Amdt 11
Fort Lauderdale, FL, Fort Lauderdale-Hollywood Intl, NDB OR GPS RWY 13, Amdt 15
Fort Lauderdale, FL, Fort Lauderdale-Hollywood Intl, LOC RWY 13, Amdt 1
Fort Lauderdale, FL, Fort Lauderdale-Hollywood Intl, ILS RWY 9L, Amdt 18
Fort Lauderdale, FL, Fort Lauderdale-Hollywood Intl, ILS RWY 27R, Amdt 6
Fort Lauderdale, FL, Fort Lauderdale-Hollywood Intl, RADAR-1, Amdt 4
Kosrae Island, FM, Kosrae, GPS RWY 5, Amdt 1
Kosrae Island, FM, Kosrae, GPS RWY 23, Amdt 1
Pohnpei Island, FM, Pohnpei International, GPS RWY 9, Amdt 1
Pohnpei Island, FM, Pohnpei International, GPS RWY 27, Amdt 1
Columbus, GA, Columbus Metropolitan, NDB OR GPS RWY 5, Amdt 27A
Cordele, GA, Crisp County-Cordele, VOR/DME OR GPS RWY 23, Amdt 10B
Cordele, GA, Crisp County-Cordele, LOC RWY 10, Orig-B
Cordele, GA, Crisp County-Cordele, NDB OR GPS RWY 10, Amdt 4B
Greenville, IL, Greenville, NDB RWY 18, Amdt 4, CANCELLED
Elkhart, IN, Elkhart Muni, VOR OR GPS RWY 9, Amdt 5A
Fort Wayne, IN, Fort Wayne International, LOC BCC RWY 14, Amdt 13A
Fort Wayne, IN, Fort Wayne International, NDB OR GPS RWY 32, Amdt 25A

Gary, IN, Gary/Chicago, NDB OR GPS RWY 30, Amdt 7A
Indianapolis, IN, Indianapolis Intl, NDB RWY 5L, Orig-B
Indianapolis, IN, Indianapolis Intl, NDB OR GPS RWY 5R, Amdt 1B
Indianapolis, IN, Indianapolis Intl, NDB OR GPS RWY 23L, Amdt 1B
Indianapolis, IN, Indianapolis Intl, NDB OR GPS RWY 32, Amdt 14B
Indianapolis, IN, Mount Comfort, VOR OR GPS RWY 34, Amdt 1A
Muncie, IN, Delaware County-Johnson Field, VOR OR GPS RWY 32, Amdt 14A
Muncie, IN, Delaware County-Johnson Field, NDB RWY 32, Amdt 12A
Ankeny, IA, Ankeny Regional, VOR/DME RWY 36, Orig
Burlington, IA, Burlington Regional, NDB OR GPS RWY 36, Amdt 8C
Cedar Rapids, IA, The Eastern Iowa, VOR OR GPS RWY 9, Amdt 16A
Cedar Rapids, IA, The Eastern Iowa, VOR OR GPS RWY 27, Amdt 11A
Cedar Rapids, IA, The Eastern Iowa, NDB RWY 9, Amdt 11A
Cedar Rapids, IA, The Eastern Iowa, GPS RWY 13, Orig-A
Cedar Rapids, IA, The Eastern Iowa, GPS RWY 31, Orig-B
Clinton, IA, Clinton Muni, VOR/DME RWY 21, Amdt 9A
Clinton, IA, Clinton Muni, NDB RWY 3, Amdt 6A
Clinton, IA, Clinton Muni, GPS RWY 14, Amdt 1A
Clinton, IA, Clinton Muni, GPS RWY 21, Amdt 1A
Clinton, IA, Clinton Muni, GPS RWY 32, Amdt 1A
Des Moines, IA, Des Moines Intl, VOR OR GPS RWY 23, Amdt 2A
Des Moines, IA, Des Moines Intl, LOC RWY 5, Amdt 1A
Dubuque, IA Dubuque Regional, VOR OR GPS RWY 13, Amdt 9
Dubuque, IA Dubuque Regional, LOC/DME BC RWY 13, Amdt 5
Fort Dodge, IA, Fort Dodge Regional, VOR OR GPS RWY 12, Amdt 14B
Fort Dodge, IA, Fort Dodge Regional, VOR/DME OR GPS RWY 30, Amdt 9B
Ottumwa, IA, Ottumwa Industrial, VOR/DME OR GPS RWY 13, Amdt 6B
Ottumwa, IA, Ottumwa Industrial, LOC/DME BC RWY 13, Amdt 2B
Waterloo, IA, Waterloo Muni, VOR RWY 18, Amdt 8
Waterloo, IA, Waterloo Muni, VOR RWY 24, Amdt 16
Waterloo, IA, Waterloo Muni, VOR RWY 36, Amdt 17
Waterloo, IA, Waterloo Muni, LOC BC RWY 30, Amdt 10
Olathe, KS, New Century Aircenter, VOR-A, Amdt 5
Olathe, KS, New Century Aircenter, NDB RWY 35, Amdt 5
Olathe, KS, New Century Aircenter, ILS RWY 35, Amdt 5
Olathe, KS, New Century Aircenter, RNAV RWY 17, Orig
Olathe, KS, New Century Aircenter, RNAV RWY 35, Orig
Bardstown, KY, Samuels Field, GPS RWY 20, Amdt 1
Covington/Cincinnati, OH, KY, Cincinnati/Northern Kentucky Intl, NDB OR GPS RWY 9, Amdt 14A
Louisville, KY, Louisville Intl-Standiford Field, GPS RWY 35L, Orig-A
Lousiville, KY, Louisville Intl-Standiford Field, GPS RWY 35R, Orig-A
Alexandria LA, Alexandria Esler Regional, LOC BCc RWY 8, Amdt 10C
Alexandria LA, Alexandria Esler Regional, GPS RWY 18, Orig-C
Baton Rouge, LA, Baton Rouge Metropolitan/Ryan Field, LOC BC RWY 4L, Amdt 6B
Baton Rouge, LA, Baton Rouge Metropolitan/Ryan Field, GPS RWY 31, Orig-A
Bogalusa, LA, George R. Carr Memorial Air Field, LOC RWY 18, Amdt 1A
Bogalusa, LA, George R. Carr Memorial Air Field, NDB OR GPS RWY 18, Amdt 3A
De Ridder LA, Beauregard Parish, LOC RWY 36, Amdt 1A
De Ridder LA, Beauregard Parish, NDB OR GPS RWY 36, Amdt 3A
Eunice, LA, Eunice, GPS RWY 34, Orig-A
Lafayette, LA, Lafayette Regional, GPS RWY 29, Orig-A
Lake Charles, LA, Lake Charles Regional, VOR/DME RNAV OR GPS RWY 5, Amdt 3A
Lake Charles, LA, Lake Charles Regional, VOR/DME RNAV OR GPS RWY 23, Amdt 3B
Lake Charles, LA, Lake Charles Regional, GPS RWY 5, Orig
Lake Charles, LA, Lake Charles Regional, GPS RWY 23, Orig
Natchitoches, LA, Natchitoches Regional, LOC RWY 34, Amdt 3A
Natchitoches, LA, Natchitoches Regional, NDB OR GPS RWY 34, Amdt 4A
New Orleans, LA, New Orleans Intl (Moisant Field), LOC RWY 19, Orig-B
New Orleans, LA, New Orleans Intl (Moisant Field), NDB RWY 10, Amdt 26B
New Orleans, LA, New Orleans Intl (Moisant Field), GPS RWY 1, Orig-A
New Orleans, LA, New Orleans Intl (Moisant Field), GPS RWY 10, Orig-A
New Orleans, LA, New Orleans Intl (Moisant Field), GPS RWY 19, Orig-A
New Orleans, LA, New Orleans Intl (Moisant Field), GPS RWY 28, Orig-A
Tallulah, LA, Vicksburg/Tallulah Regional, LOC RWY 36, Orig-C
Tallulah, LA, Vicksburg/Tallulah Regional, NDB OR GPS RWY 36, Orig-C
Auburn-Lewiston, ME, Auburn-Lewiston Muni, NDB OR GPS RWY 4, Amdt 10A
Bangor, ME, Bangor Intl, NDB RWY 33, Amdt 5A
Portland, ME, Portland Intl Jetport, NDB OR GPS RWY 11, Amdt 15A
Presque Isle, ME, Northern Maine Regional Arpt at Presque Isle, VOR/DME RWY 1 Amdt 12A
Rockland ME, Knox County Regional, GPS RWY 31, Orig-A
Leonardtown, MD, St. Mary's County, GPS RWY 11, Amdt 1
Leonardtown, MD, St. Mary's County, VOR OR GPS RWY 29, Amdt 6
Detroit, MI, Detroit Metropolitan Wayne County, NDB OR GPS RWY 3L, Admt 10B
Lansing, MI, Capital City, VOR OR GPS RWY 24, Amdt 8A
Bemidji, MN, Bemidji-Beltrami County, VOR OR GPS RWY 13, Amdt 16B
Bemidji, MN, Bemidji-Beltrami County, VOR/DME OR TACAN OR GPS RWY 31, Amdt 12B
Bemidji, MN, Bemidji-Beltrami County, NDB RWY 31, Amdt 5B
Picayune, MS, Picayune Pearl River County, VOR OR GPS–A, Amdt 11A, CANCELLED
Fredericktown, MO, Fredericktown Regional, VOR/DME RWY 1, Admt 3
Fredericktown, MO, Fredericktown Regional, VOR RWY 19, Admt 1
Fredericktown, MO, Fredericktown Regional, RNAV RWY 1, Orig
Fredericktown, MO, Fredericktown Regional, RNAV RWY 19, Orig
Kansas City, MO, Richards-Gebaur Memorial, VOR/DME–A, Orig, CANCELLED
Kansas City, MO, Richards-Gebaur Memorial, NDB RWY 1, Orig-A, CANCELLED
Kansas City, MO, Richards-Gebaur Memorial, ILS RWY 1, Amdt 5A, CANCELLED
Kansas City, MO, Richards-Gebaur Memorial, GPS RWY 1, Orig-A, CANCELLED
Kansas City, MO, Richards-Gebaur Memorial, GPS RWY 19, Orig. CANCELLED
Saipan Island, MO, Saipan Intl, GPS RWY 25, Amdt 1
Great Falls, MT, Great Falls Intl, GPS RWY 3, Orig
Great Falls, MT, Great Falls Intl, GPS RWY 21, Orig
Great Falls, MT, Great Falls Intl, GPS RWY 34, Orig
Concord, NH, Concord Muni, NDB OR GPS RWY 35, Amdt 5A
Laconia, NH, Laconia Muni, GPS RWY 26, Orig-A
Portsmouth, NH, Pease International Tradeport, GPS RWY 16, Amdt 1A
Binghampton, NY, Binghampton Regional/Edwin A. Link Field, VOR/DME OR GPS RWY 28, Amdt 9B
Binghampton, NY, Binghampton Regional/Edwin A. Link Field, NDB OR GPS RWY 34, Amdt 17B
Buffalo, NY, Buffalo Niagara Intl, NDB OR GPS RWY 5, Admt 10B
Buffalo, NY, Buffalo Niagara Intl, NDB RWY 23, Admt 15B
Elmira, NY, Elmira/Corning Regional, NDB, RWY 24, Amdt 14A
Fulton, NY, Oswego County, GPS RWY 24, Orig-A
Hornell, NY, Hornell Muni, GPS RWY 18, Orig-A
Hornell, NY, Hornell Muni, GPS RWY 36, Orig-A
Hudson, NY, Columbia County, GPS RWY 3, Amdt 1A
Hudson, NY, Columbia County, GPS RWY 21, Orig-A
Massena, NY, Massena Intl—Richards Field, VOR/DME RNAV OR GPS RWY 5, Amdt 5A
New York, NY, John F. Kennedy Intl, VOR/DME OR GPS RWY 22L, Amdt 4C
New York, NY, LaGuardia, VOR RWY 4, Amdt 2B
New York, NY, LaGuardia, LDA–A, Amdt 2A
New York, NY, LaGuardia, NDB OR GPS RWY 22, Amdt 12A
Newburg, NY, Stewart Intl, NDB OR PS RWY 9, Amdt 8A
Poughkeepsie, NY, Dutchess County, VOR/DME RWY 6, Amdt 5C
Rochester, NY, Greater Rochester Intl, NDB OR GPS RWY 28, Admt 20B

Schenectady, NY, Schenectady County, NDB RWY 28, Amdt 10B
Schenectady, NY, Schenectady County, GPS RWY 22, Orig-B
Schenectady, NY, Schenectady County, GPS RWY 28, Orig-B
Syracuse, NY, Syracuse Hancock Intl, VOR OR TACAN RWY 33, Orig-D
Syracuse, NY, Syracuse Hancock Intl, NDB RWY 28, Amdt 28B
Syracuse, NY, Syracuse Hancock Intl, GPS RWY 10, Orig-B
Utica, NY, Oneida County, NDB OR GPS RWY 15, Amdt 9C
White Plains, NY, Westchester County, VOR/DME RNAV RWY 34, Admt 6A
Fayetteville, NC, Fayetteville Regional/Grannis Field, LOC BC RWY 22, Amdt 5B
Greensboro, NC, May, VOR/DME OR GPS–A, Admt 3, CANCELLED
Greensboro, NC, Piedmont Triad International, VOR OR GPS RWY 5, Amdt 12B
Greensboro, NC, Piedmont Triad International, NDB OR GPS RWY 14, Amdt 15C
Hatteras, NC, Billy Mitchell, GPS RWY 25, Amdt 2
Kingston, NC, Kingston Regional Jetport at Stallings Fld, VOR OR GPS RWY 23, Amdt 13
Kingston, NC, Kingston Regional Jetport at Stallings Fld, VOR/DME OR GPS RWY 5, Amdt 12, CANCELLED
Kingston, NC, Kingston Regional Jetport at Stallings Fld, MDB RWY 5, Amdt 11
Kingston, NC, Kingston Regional Jetport at Stallings Fld, ILS RWY 5, Amdt 10
Kingston, NC, Kingston Regional Jetport at Stallings Fld, RNAV RWY 5, Orig
Hazen, ND, Mercer County Regional, NDB RWY 32, Orig, CANCELLED
Toledo, OH, Toledo Express, VOR/DME RNAV OR GPS RWY 16, Amdt 5A
Toledo, OH, Toledo Express, NDB OR GPS RWY 7, Amdt 24A
Oklahoma City, OK, Will Rogers World, LOC BC RWY 35L, Amdt 10C
Tulsa, OK, Tulsa Intl, VOR/DME OR TACAN RWY 8, Amdt 3C
Allentown, PA, Lehigh Valley Intl. NDB OR GPS RWY 6, Amdt 17A
Altoona, PA, Altoona-Blair County, GPS RWY 2, Orig–A
Harrisburg, PA, Capital GPS RWY 26, Orig–A
Harrisburg, PA, Harrisburg International, ILS RWY 13, Amdt 1
Harrisburg, PA, Harrisburg International, ILS RWY 31, Amdt 1
Harrisburg, PA, Harrisburg International, COPTER ILS 128, Orig
Harrisburg, PA, Harrisburg International, COPTER ILS 308, Orig
Latrobe, PA, Arnold Palmer Regional, NDB RWY 23, Amdt 13A
Philadelphia, PA, Northeast Philadelphia, VOR OR GPS RWY 6, Amdt 10A
Reading, PA, Reading Regional/Carl A. Spaatz Field, NDB RWY 36, Amdt 24A
Reading, PA, Reading Regional/Carl A. Spaatz Field, GPS RWY 13, Orig–A
Reading, PA, Reading Regional/Carl A. Spaatz Field, GPS RWY 18, Orig–A
Reedsville, PA, Mifflin County, GPS RWY 24, Orig–A
Miller, SD, Miller Muni, NDB RWY 15, Orig, CANCELLED
Tretnon, TN, Gibson County, NDB or GPS RWY 19, Amdt 4
Abilene, TX, Abilene Regional, NDB RWY 35 R, Amdt 5B
Abilene, TX, Abilene Regional, GPS RWY 17L, Orig–A
Abilene, TX, Abilene Regional, GPS RWY 35R, Orig–A
Amarillo, TX, Amarillo Intl, VOR/DME RWY 31, Orig–A
Amarillo, TX, Amarillo Intl, GPS RWY 13, Orig–A
Amarillo, TX, Amarillo Intl, GPS RWY 31, Orig–A
Amarillo, TX, Tradewind, VOR/DME RNAV RWY 35, Orig–A
Amarillo, TX, Tradewind, GPS RWY 35, Orig–A
Beaumont-Port Arthur, TX, Southeast Texas Regional, VOR/DME RWY 34, Amdt 7B
Beaumont-Port Arthur, TX, Southeast Texas Regional, LOC BC RWY 30, Amdt 19A
Beaumont-Port Arthur, TX, Southeast Texas Regional, GPS RWY 34, Orig–B
Brownsville, TX, Brownsville/South Padre Island Intl, LOC BC RWY 31L, Amdt 11A
College Station, TX, Easterwood Field, VOR OR TACAN RWY 10, Amdt 18C
College Station, TX, Easterwood Field, LOC BC RWY 16, Amdt 5B
El Paso, TX, El Paso Intl, LOC/DME RWY 4, Amdt 2A
El Paso, TX, El Paso Intl, VOR RWY 26L, Amdt 29C
El Paso, TX, El Paso Intl, NDB RWY 22, Amdt 28B
Greenville, TX, Majors, VOR/DME RWY 17, Orig–A
Greenville, TX, Majors, NDB OR GPS RWY 35, Amdt 1A
Houston, TX, David Wayne Hooks Memorial, VOR/DME RNAV OR GPS RWY 17R, Amdt 3A
Houston, TX, David Wayne Hooks Memorial, VOR/DME RNAV OR GPS RWY 35L, Amdt 3A
Houston, TX, Ellington Field, GPS RWY 4, Orig–A
Houston, TX, William P. Hobby, VOR/DME RWY 17, Amdt 1B
Houston, TX, William P. Hobby, VOR/DME RWY 22, Amdt 24A
Houston, TX, William P. Hobby, VOR/DME RWY 30L, Amdt 16A
Houston, TX, William P. Hobby, VOR/DME RWY 35, Amdt 2A
Houston, TX, William P. Hobby, LOC RWY 22, Orig
Longview, TX, Gregg County, VOR/DME RNAV RWY 22, Amdt 6A
Lubbock, TX, Lubbock Intl, VOR/DME RNAV RWY 8, Amdt 2A
Lubbock, TX, Lubbock Intl, NDB RWY 17R, Amdt 15A
Lubbock, TX, Lubbock Intl, NDB RWY 26, Amdt 2A
Lubbock, TX, Lubbock Intl, GPS RWY 8, Orig–A
Lubbock, TX, Lubbock Intl, GPS RWY 35L, Orig–A
McAllen, TX, McAllen Miller Intl, LOC BC RWY 31, Amdt 9B
McAllen, TX, McAllen Miller Intl, VOR RWY 31, Amdt 1A
McAllen, TX, McAllen Miller Intl, GPS RWY 31, Orig–A
Midland, TX, Midland Intl, VOR OR TACAN RWY 16R, Amdt 22B
Paris, TX, Cox Field, VOR OR GPS RWY 35, Amdt 1A
San Angelo, TX, San Angelo Regional/Mathis Field, NDB RWY 3, Amdt 14A
San Angelo, TX, San Angelo Regional/Mathis Field, VOR RWY 21, Amdt 16A
Victoria, TX, Victoria Regional, VOR/DME OR GPS RWY 30R, Amdt 5A
Waco, TX, Waco Regional, VOR OR GPS RWY 14, Amdt 22A
Rutland, VT, Rutland State, GPS RWY 19, Amdt 2A
Lewisburg, WV, Greenbrier Valley, GPS RWY 4, Amdt 1A
Petersburg, WV, Grant County, GPS RWY 31, Amdt 1
Petersburg, WV, Grant County, LDA/DME–B, Amdt 3
Petersburg, WV, Grant County, VOR/DME OR GPA–A, Amdt 2

Effective June 15, 2000

Stigler, OK, Stigler Muni, GPS RWY 17, Orig
Stigler, OK, Stigler Muni, GPS RWY 35, Orig

[FR Doc. 00–4487 Filed 2–24–00; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 151

[T.D. 99–67]

RIN 1515–AB60

Accreditation of Commercial Testing Laboratories; Approval of Commercial Gaugers; Correction

AGENCY: Customs Service, Treasury.

ACTION: Final rule; correcting amendments and additions.

SUMMARY: This document makes certain corrections to the document published in the **Federal Register** that adopted as a final rule, with some changes, proposed amendments to the Customs Regulations relating to the commercial testing and gauging of imported merchandise. The regulations revised the general procedures for: Customs accreditation of commercial laboratories; the revocation or suspension of Customs-accredited laboratories; Customs approval of commercial gaugers; and the revocation or suspension of Customs-approved gaugers. The corrections in this document involve changes to the Customs Regulations pertaining to:

(1) The time frame within which the Executive Director will issue a decision if a laboratory or gauger does not file a response to a preliminary notice of nonselection or to a proposed

revocation or suspension of accreditation or approval;

(2) The starting point and the length of the waiting period before a laboratory or gauger may file a new application after it has received final notice that it has not been selected for accreditation or approval based on a prior application, or after its accreditation or approval has been revoked or suspended; and

(3) The starting point of the time frame within which a laboratory or gauger must file an action with the Court of International Trade if the laboratory or gauger chooses to challenge in the Court the decision made by the Assistant Commissioner, Office of Field Operations, regarding not being selected for accreditation or approval or having its accreditation or approval revoked or suspended.

These changes are made to clarify the procedures when Customs issues adverse decisions affecting the accreditation of laboratories and the approval of gaugers.

EFFECTIVE DATE: This correction is effective February 25, 2000.

FOR FURTHER INFORMATION CONTACT: Ira Reese, Laboratories & Scientific Services, (202) 927–1060; or Marcelino Borges, Laboratories & Scientific Services, (202) 927–1137.

SUPPLEMENTARY INFORMATION:

Background

On September 7, 1999, Customs published in the **Federal Register** (64 FR 48528) T.D. 99–67 which adopted as a final rule, with some changes, proposed amendments to the Customs Regulations relating to the commercial testing and gauging of imported merchandise. The regulations revised the general procedures for: Customs accreditation of commercial laboratories; the revocation or suspension of Customs-accredited laboratories; Customs approval of commercial gaugers; and the revocation or suspension of Customs-approved gaugers.

The final rule document provides laboratories which apply for Customs accreditation, but are not selected, and gaugers which apply for Customs approval, but are not selected, with two-levels of administrative review before allowing reapplication for accreditation or approval or further appeal to the Court of International Trade. This same reapplication-appeal procedure is also provided for Customs-accredited laboratories and Customs-approved gauger facilities whose status is subsequently suspended or revoked or whose operations are subject to monetary penalties. The first-level of administrative review of such Customs decision is to the Executive Director, Laboratories & Scientific Services, and the second-level of administrative review is to the Assistant Commissioner, Office of Field Operations.

After the administrative review process is completed, the regulations provide that a laboratory or gauger receiving an adverse agency decision may either submit a new application for accreditation or approval after waiting a set time frame (90 days) from the date of the Executive Director's last decision, or file an action with the Court of International Trade within a certain time frame (60 days) after the issuance of the Executive Director's final decision.

It has come to Customs attention that the Customs Regulations are unclear pertaining to:

(1) The starting point and the length of the waiting period before a laboratory or gauger may file a new application after it has received final notice that it has not been selected for accreditation or approval based on a prior application, or after its accreditation or approval has been revoked or suspended; and

(2) The starting point of the time frame within which a laboratory or gauger must file an action with the Court of International Trade if the laboratory or gauger chooses to challenge in the Court the decision made by the Assistant Commissioner, Office of Field Operations, regarding not being selected for accreditation or approval or having its accreditation or approval revoked or suspended.

In addition, the regulations are unworkable regarding the time frame within which the Executive Director will issue a decision if a laboratory or gauger does not file a response to a preliminary notice of nonselection or to a proposed revocation or suspension of accreditation or approval.

Filing a New Application

It has come to Customs attention that the regulations are not clear regarding the starting point and the length of the waiting period before a laboratory or gauger may file a new application after it has received a final notice that it has not been selected for accreditation or approval based on a prior application, or after its accreditation or approval has been revoked or suspended. This is because the regulations do not clearly set forth the procedures Customs contemplated.

One interpretation of the regulations as they appear in the **Federal Register** dated September 7, 1999, could be that a laboratory or gauger who is not selected or whose accreditation or approval is revoked or suspended is required to receive the adverse determination from the Assistant Commissioner, Office of Field Operations, before being given the option of submitting a new application for accreditation or approval. Customs did not intend this to be the case.

Customs contemplated that a laboratory or gauger who is not selected or whose accreditation or approval is being revoked or suspended may choose to accept the final notice of nonselection or notice of adverse determination issued by the Executive Director, not appeal to the Assistant Commissioner, and wait a set time frame from the Executive Director's decision to reapply for accreditation and approval.

Customs also contemplated that a laboratory or gauger that does appeal the nonselection, suspension, or revocation decision of the Executive Director to the Assistant Commissioner may accept an adverse decision issued by the Assistant Commissioner, wait a set time frame from that decision and then reapply for accreditation and approval rather than challenge the Assistant Commissioner's decision in the Court of International Trade. Unfortunately, while the language in the regulations clearly states that a laboratory or gauger that has received such an adverse determination by the Assistant Commissioner may reapply rather than challenge the decision in the Court of International Trade, the regulation states that the starting point of the waiting period for reapplying in this instance is the decision of the Executive Director, not the decision of the Assistant Commissioner. In this instance, the obvious starting point of the waiting period should be the Assistant Commissioner's decision.

In this document, Customs is clarifying that a laboratory or gauger receiving a final adverse determination from the Executive Director or an adverse determination from the Assistant Commissioner regarding accreditation or approval may choose to not further appeal the decision and then reapply. The laboratory or gauger may accept the Executive Director's final decision, not appeal the decision to the Assistant Commissioner, and reapply for accreditation or approval after a set time frame, with the date of the Executive Director's final decision being the starting point of that time frame. If the laboratory or gauger chooses to appeal the Executive Director's final decision to the Assistant Commissioner, the laboratory or gauger may choose to

accept the Assistant Commissioner's decision in the matter, not file an action with the Court of International Trade, and reapply for accreditation or approval after a set time frame, with the date of the Assistant Commissioner's decision being the starting point of that time frame.

Once the clarification is made regarding the option (of a non-selected laboratory or gauger or a Customs-accredited laboratory or Customs-approved gauger which is suspended or revoked) to submit a new application rather than appeal the Customs decision at either the Executive Director or Assistant Commissioner level, and the clarification is made regarding the starting point of the waiting periods before a new application can be submitted, it becomes obvious that the time frames set forth in the regulations for submitting a new application also need to be revised; it was not Customs intention to allow the time frame for submitting a new application to be shorter than the time frame for following the appeal process.

Accordingly, Customs is changing the time frames for submitting a new application to be as follows:

(1) If the laboratory or gauger accepts the final adverse decision of the Executive Director, the laboratory or gauger may submit a new application to the Executive Director 180 days after the date of the Executive Director's decision; and

(2) If the laboratory or gauger appeals the final adverse decision of the Executive Director to the Assistant Commissioner, but accepts an adverse appeal decision issued by the Assistant Commissioner, the laboratory or gauger may submit a new application to the Executive Director 120 days after the date of the Assistant Commissioner's decision.

Filing an Action With the Court of International Trade

It has also come to Customs attention that the regulations are not clear that Customs contemplated that a laboratory or gauger must exhaust its administrative remedies before it may file an action with the Court of International Trade regarding an adverse accreditation or approval determination. In other words, a laboratory or gauger may not file an action with the Court of International Trade until it has received an adverse determination issued by the Assistant Commissioner, Office of Field Operations. This correction seeks to clarify that point.

In addition, this correction also changes the starting point of the time frame within which a laboratory or gauger must file an action with the Court of International Trade if the laboratory or gauger chooses to challenge in the Court a decision made by the Assistant Commissioner regarding not being selected for accreditation or approval or regarding having its accreditation or approval revoked or suspended. As published, the regulations state that the starting point of the 60-day time frame begins with the issuance of the Executive Director's notice of final action or decision. This procedure is not workable since the laboratory or gauger must receive the adverse decision issued by the Assistant Commissioner before it can file an action with the court. The Executive Director's decision is made prior to the Assistant Commissioner's. Accordingly, the starting point of the time frame within which a laboratory or gauger must file an action with the Court of International Trade is corrected to be the adverse decision issued by the Assistant Commissioner.

Issuance of a Final Decision by the Executive Director

The regulations provide that laboratories not expected to be selected for accreditation, gaugers not expected to be selected for approval, laboratories whose accreditation may be revoked or suspended, and gaugers whose approval may be revoked or suspended will be notified in writing by a preliminary notice of Customs proposed action in the matter and that the notice will state that the laboratory and gauger has the option of filing a response with the Executive Director within 30 calendar days.

The regulations further provide that if the laboratory or gauger does not respond to the preliminary notice, the Executive Director will issue after 30 calendar days of the laboratory or gauger's receipt of the preliminary notice a final notice of adverse determination in the case of a proposed suspension or revocation, or a final notice of nonselection in the case of a nonselection.

Clearly, this is administratively infeasible. If Customs must wait 30 days to receive a response, Customs cannot within the same time frame send out a notice based on a nonresponse informing the laboratory or gauger of its decision. Customs must provide the full 30 days for a laboratory or gauger to send in a response, and then if no response is received, have time to prepare the final notice of adverse determination or final notice of nonselection.

Customs believes that it should have 30 additional days to send a final notice of adverse determination or final notice of nonselection to a laboratory or gauger after the laboratory or gauger's 30-day response period has expired. This 60-day time frame for Customs to send out a final notice of adverse determination or final notice of nonselection is consistent with the 60-day time frame that Customs has to issue these notices if a laboratory or gauger does respond to the preliminary notice.

The regulations are changed accordingly to reflect that the Executive Director has 60 days from the date the preliminary notice was received by the laboratory or gauger to issue a final notice of nonselection or final notice of adverse determination if the laboratory or gauger does not respond to a preliminary notice.

Corrected Paragraphs

The corrections made to the laboratory regulations are in paragraphs (g) and (k) of § 151.12. The corrections made to the gauger regulations are in paragraphs (e) and (i) of § 151.13. Because of the breadth of these corrections and to make their application clear, the affected sections identified above are republished below.

Correction of Publication

In the document published in the **Federal Register** as T.D. 99–67 on September 7, 1999 (64 FR 48528):

1. On pages 48536 and 48537, in § 151.12, paragraphs (g)(1) and (g)(3) are corrected to read as follows:

§ 151.12 Accreditation of commercial laboratories.

* * * * *

(g) *How will an applicant be notified concerning accreditation?*

(1) *Notice of accreditation or nonselection.* When Customs evaluation of a laboratory's credentials is completed, the Executive Director will notify the laboratory in writing of its preliminary accreditation or nonselection. (Final accreditation determinations will not be made until the applicant has satisfied all bond requirements and made payment on all assessed charges and the balance of the applicable accreditation fee). All final notices of accreditation, reaccreditation, or extension of existing Customs accreditation will be published in the **Federal Register** and Customs Bulletin.

(2) * * *

(3) *Adverse accreditation decisions; appeal procedures.*

(i) *Preliminary notice.* A laboratory which is not selected for accreditation will be sent a preliminary notice of

nonselection. The preliminary notice of nonselection will state the specific grounds for the proposed nonselection decision and advise the laboratory that it may file a response addressing the grounds for the action proposed with the Executive Director within 30 calendar days of the date the preliminary notice of nonselection was received by the laboratory.

(ii) *Final notice.* (A) *Based on nonresponse.* If the laboratory does not respond to the preliminary notice, the Executive Director will issue a final notice of nonselection within 60 calendar days of the date the preliminary notice of nonselection was received by the laboratory applicant. The final notice of nonselection will state the specific grounds for the nonselection and advise the laboratory that it may choose to pursue one of the following two options:

(*1*) Submit a new application for accreditation, in accordance with the provisions of paragraph (f)(1) of this section, 180 days after the date of the final notice of nonselection; or

(*2*) Administratively appeal the final notice of nonselection to the Assistant Commissioner within 30 calendar days of the date of the final notice of nonselection.

(B) *Based on response.* If the laboratory files a timely response, the Executive Director will issue a final determination regarding the laboratory's accreditation within 30 calendar days of the date the applicant's response is received by the Executive Director. If this final determination is adverse to the laboratory, then the final notice of nonselection will state the specific grounds for nonselection and advise the laboratory that it may choose to pursue one of the two options provided at paragraphs (g)(3)(ii)(A)(1) and (2) of this section.

(iii) *Appeal decision.* The Assistant Commissioner will issue a decision on the appeal within 30 calendar days of the date the appeal is received. If the appeal decision is adverse to the laboratory, then the decision notice will advise the laboratory that it may choose to pursue one of the following two options:

(A) Submit a new application for accreditation, in accordance with the provisions of paragraph (f)(1) of this section, 120 days after the date of the appeal decision; or

(B) File an action with the Court of International Trade, pursuant to chapter 169 of title 28, United States Code, within 60 days of the date of the appeal decision.

2. On pages 48538 and 48539, in § 151.12, paragraphs (k)(2) and (k)(3) are corrected and paragraph (k)(4) is added to read as follows:

§ 151.12 Accreditation of commercial laboratories.

* * * * *

(k) *How can a laboratory have its accreditation suspended or revoked or be required to pay a monetary penalty?*

(1) * * *

(2) *Notice of adverse action.* When a decision to suspend or revoke accreditation, and/or assess a monetary penalty is made, the Executive Director will immediately notify the laboratory in writing, indicating whether the action is effective immediately or is proposed.

(i) *Immediate suspension or revocation.* Where the suspension or revocation of accreditation is immediate, the Executive Director will issue a final notice of adverse determination. The final notice of adverse determination will state the specific grounds for the immediate suspension or revocation, direct the laboratory to cease performing any Customs-accredited functions, and advise the laboratory that it may choose to pursue one of the following two options:

(A) Submit a new application for accreditation, in accordance with the provisions of paragraph (f)(1) of this section, 180 days after the date of the final notice of adverse determination; or

(B) Administratively appeal the final notice of adverse determination to the Assistant Commissioner within 30 calendar days of the date of the final notice of adverse determination.

(ii) *Proposed suspension, revocation, or assessment of monetary penalty.*

(A) *Preliminary notice.* Where the suspension or revocation of accreditation, and/or the assessment of a monetary penalty is proposed, the Executive Director will issue a preliminary notice of proposed action. The preliminary notice of proposed action will state the specific grounds for the proposed action, inform the laboratory that it may continue to perform those functions requiring Customs-accreditation until the Executive Director's final notice is issued, and advise the laboratory that it may file a response addressing the grounds for the action proposed with the Executive Director within 30 calendar days of the date the preliminary notice of proposed action was received by the laboratory. The laboratory may respond by accepting responsibility, explaining extenuating circumstances, and/or providing rebuttal evidence. The laboratory also may ask for a meeting with the Executive Director or his designee to discuss the proposed action.

(B) *Final notice.*

(*1*) *Based on nonresponse.* If the laboratory does not respond to the preliminary notice of proposed action, the Executive Director will issue a final notice of adverse determination within 60 calendar days of the date the preliminary notice of proposed action was received by the laboratory. The final notice of adverse determination will state the specific grounds for the adverse determination, direct the laboratory to cease performing any Customs-accredited functions, and advise the laboratory that it may choose to pursue one of the two options provided at paragraphs (k)(2)(i)(A) and (B) of this section.

(2) *Based on response.* If the laboratory files a timely response, the Executive Director will issue a final determination regarding the status of the laboratory's accreditation within 30 calendar days of the date the laboratory's response is received by the Executive Director. If this final determination is adverse to the laboratory, then the final notice of adverse determination will state the specific grounds for the adverse action, advise the laboratory to cease performing any functions requiring Customs accreditation, and advise the laboratory that it may choose to pursue one of the two options provided at paragraphs (k)(2)(i)(A) and (B) of this section.

(3) *Publication of final notices of adverse determination.* Any final notices of adverse determination issued by the Executive Director resulting in a laboratory being directed to cease performing Customs-accredited functions will be published in the **Federal Register** and Customs Bulletin and the notice published will include the effective date, duration, and scope of the determination.

(4) *Appeal decision.* The Assistant Commissioner will issue a decision on the appeal within 30 calendar days of the date the appeal is received. If the appeal decision is adverse to the laboratory, then the decision notice will advise the laboratory that it may choose to pursue one of the following two options:

(i) Submit a new application for accreditation, in accordance with the provisions of paragraph (f)(1) of this section, 120 days after the date of the appeal decision; or

(ii) File an action with the Court of International Trade, pursuant to chapter 169 of title 28, United States Code, within 60 days of the date of the appeal decision.

3. On pages 48540 and 48541, in § 151.13, paragraphs (e)(1) and (e)(3) are corrected to read as follows:

§ 151.13 Approval of commercial gaugers.

* * * * *

(e) *How will an applicant be notified concerning approval?*

(1) *Notice of approval or nonselection.* When Customs evaluation of a gauger's credentials is completed, the Executive Director will notify the gauger in writing of its preliminary approval or nonselection. (Final approval determinations will not be made until the applicant has satisfied all bond requirements and made payment on all assessed charges and the balance of the applicable approval fee). All final notices of approval, reapproval, or extension of existing Customs approval will be published in the **Federal Register** and Customs Bulletin.

(2) * * *

(3) *Adverse approval decisions; appeal procedures.*

(i) *Preliminary notice.* A gauger which is not selected for approval will be sent a preliminary notice of nonselection. The preliminary notice of nonselection will state the specific grounds for the proposed nonselection decision and advise the gauger that it may file a response addressing the grounds for the action proposed with the Executive Director within 30 calendar days of the date the preliminary notice of nonselection was received by the gauger.

(ii) *Final notice.* (A) *Based on nonresponse.* If the gauger does not respond to the preliminary notice, the Executive Director will issue a final notice of nonselection within 60 calendar days of the date the preliminary notice of nonselection was received by the gauger applicant. The final notice of nonselection will state the specific grounds for the nonselection and advise the gauger that it may choose to pursue one of the following two options:

(*1*) Submit a new application for approval, in accordance with the provisions of paragraph (d)(1) of this section, 180 days after the date of the final notice of nonselection; or

(*2*) Administratively appeal the final notice of nonselection to the Assistant Commissioner within 30 calendar days of the date of the final notice of nonselection.

(B) *Based on response.* If the gauger files a timely response, the Executive Director will issue a final determination regarding the gauger's approval within 30 calendar days of the date the applicant's response is received by the Executive Director. If this final determination is adverse to the gauger, then the final notice of nonselection will state the specific grounds for nonselection and advise the gauger that it may choose to pursue one of the two options provided at paragraphs (e)(3)(ii)(A)(1) and (2) of this section.

(iii) *Appeal decision.* The Assistant Commissioner will issue a decision on the appeal within 30 calendar days of the date the appeal is received. If the appeal decision is adverse to the gauger, then the decision notice will advise the gauger that it may choose to pursue one of the following two options:

(A) Submit a new application for approval, in accordance with the provisions of paragraph (d)(1) of this section, 120 days after the date of the appeal decision; or

(B) File an action with the Court of International Trade, pursuant to chapter 169 of title 28, United States Code, within 60 days of the date of the appeal decision.

4. On pages 48542 and 48543, in § 151.13, paragraphs (i)(2) and (i)(3) are corrected and paragraph (i)(4) is added to read as follows:

§ 151.13 Approval of commercial gaugers.

* * * * *

(i) *How can a gauger have its approval suspended or revoked or be required to pay a monetary penalty?*

(1) * * *

(2) *Notice of adverse action.* When a decision to suspend or revoke approval, and/or assess a monetary penalty is made, the Executive Director will immediately notify the gauger in writing, indicating whether the action is effective immediately or is proposed.

(i) *Immediate suspension or revocation.* Where the suspension or revocation of approval is immediate, the Executive Director will issue a final notice of adverse determination. The final notice of adverse determination will state the specific grounds for the immediate suspension or revocation, direct the gauger to cease performing any Customs-approved functions, and advise the gauger that it may choose to pursue one of the following two options:

(A) Submit a new application for approval, in accordance with the provisions of paragraph (d)(1) of this section, 180 days after the date of the final notice of nonselection; or

(B) Administratively appeal the final notice of adverse determination to the Assistant Commissioner within 30 calendar days of the date of the final notice of adverse determination.

(ii) *Proposed suspension, revocation, or assessment of monetary penalty.*

(A) *Preliminary notice.* Where the suspension or revocation of approval, and/or the assessment of a monetary penalty is proposed, the Executive Director will issue a preliminary notice of proposed action. The preliminary notice of proposed action will state the specific grounds for the proposed action, inform the gauger that it may continue to perform those functions requiring Customs-approval until the Executive Director's final notice is issued, and advise the gauger that it may file a response addressing the grounds for the action proposed with the Executive Director within 30 calendar days of the date the preliminary notice of proposed action was received by the gauger. The gauger may respond by accepting responsibility, explaining extenuating circumstances, and/or providing rebuttal evidence. The gauger also may ask for a meeting with the Executive Director or his designee to discuss the proposed action.

(B) *Final notice.*

(*1*) *Based on nonresponse.* If the gauger does not respond to the preliminary notice of proposed action, the Executive Director will issue a final notice of adverse determination within 60 calendar days of the date the preliminary notice of proposed action was received by the gauger. The final notice of adverse determination will state the specific grounds for the adverse determination, direct the gauger to cease performing any Customs-approved functions, and advise the gauger that it may choose to pursue one of the two options provided at paragraphs (i)(2)(i)(A) and (B) of this section.

(*2*) *Based on response.* If the gauger files a timely response, the Executive Director will issue a final determination regarding the status of the gauger's approval within 30 calendar days of the date the gauger's response is received by the Executive Director. If this final determination is adverse to the gauger, then the final notice of adverse determination will state the specific grounds for the adverse action, advise the gauger to cease performing any functions requiring Customs approval, and advise the gauger that it may choose to pursue one of the two options provided at paragraphs (i)(2)(i))(A) and (B) of this section.

(3) *Publication of final notices of adverse determination.*

Any final notices of adverse determination issued by the Executive Director resulting in a gauger being directed to cease performing Customs-approved functions will be published in the **Federal Register** and Customs Bulletin and the notice published will include the effective date, duration, and scope of the determination.

(4) *Appeal decision.* The Assistant Commissioner will issue a decision on the appeal within 30 calendar days of the date the appeal is received. If the appeal decision is adverse to the gauger, then the decision notice will advise the gauger that it may choose to pursue one of the following two options:

(i) Submit a new application for approval, in accordance with the provisions of paragraph (d)(1) of this section, 120 days after the date of the appeal decision; or

(ii) File an action with the Court of International Trade, pursuant to chapter 169 of title 28, United States Code, within 60 calendar days of the date of the appeal decision.

Dated: February 18, 2000.

Stuart P. Seidel,

Assistant Commissioner, Office of Regulations and Rulings.

[FR Doc. 00–4438 Filed 2–24–00; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 801

[Docket No. 99N–2550]

Medical Devices; Hearing Aids; Technical Data Amendments; Confirmation of Effective Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date of March 17, 2000, for the final rule that appeared in the **Federal Register** of November 3, 1999 (64 FR 59618). The direct final rule amends regulations governing hearing aid labeling to reference the most recent version of the consensus standard used to determine technical data to be included in labeling for hearing aids. This amendment allows manufacturers to use state-of-the-art methods to address technical data in labeling for hearing aids. This document confirms the effective date of the direct final rule.

DATES: Effective date confirmed: March 17, 2000.

FOR FURTHER INFORMATION CONTACT: David A. Segerson, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2080.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 3, 1999 (64 FR 59618), FDA solicited comments concerning the direct final rule for a 75-day period ending January 17, 2000. FDA stated that the effective date of the direct final rule would be on March 17, 2000, 60 days after the end of the comment period, unless any significant adverse comment was submitted to FDA during the comment period. FDA did not receive any significant adverse comments.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, notice is given that no objections or requests for a hearing were filed in response to the November 3, 1999, direct final rule. Accordingly, the amendments issued thereby are effective.

Dated: February 17, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–4404 Filed 2–24–00; 8:45 am]

BILLING CODE 4160–01–F

POSTAL RATE COMMISSION

39 CFR Part 3001

[Order No. 1285; Docket No. RM2000–1]

Practice and Procedure; Cost, Revenue and Volume Data Generated by International Mail Services

AGENCY: Postal Rate Commission.

ACTION: Final rule.

SUMMARY: This document adopts permanent rules for the analysis of cost, revenue and volume data generated by the Postal Service's international mail services. These rules will assist the Commission in preparing annual reports to Congress, as required by law.

DATES: Effective February 25, 2000.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 1333 H Street NW., Washington, DC 20268–0001, 202–789–6820.

SUPPLEMENTARY INFORMATION:

Regulatory History

On January 26, 1999, Commission order no. 1226 in docket no. IM99–1 was published in the **Federal Register** (64 FR 3991). On November 26, 1999, the Commission issued order no. 1270 in docket no. RM2000–1(64 FR 66436). On February 15, the Commission issued this order [no. 1285] in docket no. RM200–1 and directed that it be published in the **Federal Register**.

Background

On October 21, 1998, Public Law 105–277 was signed into law, adding section 3663 to the Postal Reorganization Act (PRA) (39 U.S.C. 3663). It requires that by July 1 of each year, the Commission ''transmit to each House of Congress a comprehensive report of the costs, revenues, and volumes'' accrued by the Postal Service ''in connection with mail matter conveyed between the United States and other countries'' for the prior fiscal year. To enable the Commission to carry out that directive, section 3663 requires the Postal Service to provide, by March 15, ''such data as the Commission may require'' to prepare that report. It states that the data provided

> shall be in sufficient detail to enable the Commission to analyze the costs, revenues, and volumes for each international mail product or service, under the methods determined appropriate by the Commission for analysis of rates for domestic mail.

Initial Notice of Proposed Rulemaking

On June 30, 1999, the Commission transmitted its first annual report on international mail to Congress. On November 18, 1999, the Commission issued a notice of proposed rulemaking (NPRM) inviting interested persons to comment on the Commission's initial effort to satisfy the requirements of 39 U.S.C. 3663. The NPRM invited comments on what data the Postal Service should provide to the Commission each year to enable the Commission to prepare its report. In particular, the Commission invited comment on its proposed rule 103, which appeared as appendix A to the NPRM. Proposed rule 103 would add to the Commission's periodic reporting rules, a list of items to be included in the Postal Service's data submission that must be filed by March 15 of each year under section 3663(b). The NPRM also invited comments on the appropriate scope and detail of the Commission's annual international mail report, including the analytical methods that should be applied to calculate the costs, revenues, and volumes of international mail services.

The NPRM described the efforts of several of the Postal Service's competitors to obtain the information that the Postal Service provided to the Commission to enable it to prepare its initial report on international mail. The NPRM invited comments on the procedures that should be employed to determine which portions of the report or supporting documents should not be publicly disclosed, what criteria or standards should govern that determination, what categories of

commercial information meet those standards, and the basis for any such comments. The NPRM also invited comments on any other issues that interested persons considered relevant to the Commission's duty to analyze and report on international mail costs, revenues, and volumes under section 3663.

I. Information Needed to Prepare the Report

Section 3663(b) of title 39 requires the Postal Service to provide by March 15 of each year the information necessary to enable the Commission to prepare its international mail report, which is due on July 1 of each year. In its NPRM the Commission proposed to regularize the set of international mail information items that the Postal Service is to provide annually by March 15 by including them in the set of periodic reports that the Postal Service is required to file. In appendix A to the NPRM, the Commission presented proposed rule 103 [proposed 39 C.F.R. 3001.103] which included a list of specific information items that the Postal Service would be required to provide by March 15 of each year. Several sets of comments were received on the adequacy of that list.

A. The ICRA—PRC and USPS Versions

The International Cost and Revenue Analysis (ICRA) report summarizes how the costs of collecting, handling, transporting, and delivering international mail are attributed to specific international services. Some of those costs are incurred by international mail while it is in the domestic mail network. There are some differences in the methods by which the Postal Service attributes the costs of the domestic network and the methods by which the Commission attributes these costs. The Commission needs a version of the ICRA that follows Commission-approved attribution methods in order to prepare its international mail report. It also needs a version of the ICRA that follows the attribution methods that the Postal Service prefers in order to isolate the effect of methodological changes that the Postal Service introduces from year to year from the effect of applying Commission approved methods.

Proposed rule 103 would require the Postal Service to provide both a PRC and a USPS version of the ICRA on March 15 of each year. The Postal Service states that in order to comply with the Commission's request to produce a PRC version of the fiscal year (FY) 1998 ICRA by the March 15, 1999 deadline, it had to defer the production of its own internal version of the ICRA, due to resource constraints. It asserts that resource constraints preventing the simultaneous production of PRC and USPS versions of the ICRA will persist in the future, and argues that no deadline be imposed on its production of the USPS version of the ICRA. It says that it should be able to provide the USPS version of the ICRA shortly after the PRC version is provided. It argues that this should not disadvantage the Commission. It explains that if it plans to make changes in the methods that it uses to attribute international mail costs to the various international services, and it would like the Commission to affirm them, it expects to incorporate them in the PRC version of the ICRA. Initial Comments of United States Postal Service, filed December 27, 1999, at 5 (Postal Service Comments).

The Commission believes that a specific deadline for providing the USPS version remains necessary in order to avoid the situation that the Commission faced in preparing its initial international mail report. The Postal Service made changes to the methods that it used to estimate attributable international air transportation costs and to estimate the settlement difference that had major impacts on the cost coverages that it calculated for several international mail services and for international mail as a whole. These changes first appeared in the USPS version of the ICRA which the Postal Service provided to the Commission on June 7, 1999. Because there was not enough time to carefully evaluate these proposed changes, cost coverages for each international mail service based on Commission-approved methods and the new methods introduced by the Postal Service were calculated. The Commission's international mail report included appendices illustrating the impact that the Postal Service's new, but unevaluated, methods would have had on international mail cost coverages. The Commission would prefer to receive notice of such methodological changes in time to thoroughly evaluate their rationale and verify that they have been accurately applied.

Final rule 103 retains the requirement that the Postal Service provide an audited PRC version of the ICRA by March 15 of each year. In light of the resource constraints cited by the Postal Service, and its expectation that significant methodological innovations by the Postal Service will already be apparent in the PRC version, final rule 103 will allow the Postal Service until May 15 of each year to provide a USPS version of the ICRA. Allowing the Postal Service two extra months should substantially ease the Postal Service's burden in providing the USPS version of the ICRA.

B. The Domestic CRA and CSC Reports

The list of items that proposed rule 103 would require the Postal Service to provide includes the PRC version of the domestic Cost and Revenue Analysis (CRA) and the companion Cost Segments and Components (CSC) report. Proposed rule 103 would require the Postal Service to provide at least an unaudited PRC version by March 15 of each year. If an unaudited version were provided, proposed rule 103 would require the Postal Service to provide an audited or finalized PRC version by May 15 of each year. This would allow the Commission enough time to identify and reconcile any discrepancies that there might be between the PRC version of the ICRA and the finalized PRC version of the domestic CRA and CSC.

These companion reports estimate what portion of the Postal Service's accrued costs in its various cost components can be attributed to specific subclasses of domestic mail. The domestic CRA shows how total attributable costs are distributed to the various subclasses of domestic mail and to international mail as a whole. The CSC report displays these costs by cost component. Throughout both reports, costs attributed to international services are presented only in aggregate. To determine the accuracy of the distribution of attributable costs between domestic and international services requires an examination of CRA and CSC reports and their underlying workpapers. The underlying workpapers show the method and procedures by which the Postal Service determines the attributable costs for domestic and international services.

Commission authority to require production of the domestic CRA and CSC reports. In its comments, the Postal Service suggests that the Commission does not have the statutory authority to require the production of the domestic CRA, the CSC, or the supporting documentation for these reports, on a specific schedule or in a preliminary form. Its principal argument is that section 401(4) of the PRA gives the Postal Service the power to keep its own system of accounts, and that section 3663 doesn't explicitly override that power. Postal Service Comments at 3–4.

The Postal Service also questions whether the Commission needs a comprehensive domestic CRA to prepare its report on international mail. At page 8 of its comments, it says that ''it is open to question whether 39 U.S.C. 3663 was ever intended by

Congress to authorize the Commission, in effect, to serve as a second auditor of the Postal Service's financial data.'' It states that it expects to provide the Commission with those parts of the domestic CRA and documentation that directly support the development of the ICRA. It also states that it would be willing to supplement such documentation if critical gaps were identified that seriously interfered with the Commission's ability to produce its report by July 1. In any event, the Postal Service asserts, the audited domestic CRA will be completed and available in time to enable the Commission to use it to complete its report on schedule. Accordingly, the Postal Service argues, the rule need not be written to require the production of the domestic CRA at all; rather it need only specify the production of information needed to review the parts of the domestic CRA used to create the ICRA. Id. at 7–8.

Several of the commenters disagreed with the Postal Service's narrow view of the Commission's authority under section 3663. United Parcel Service (UPS) argues that the following language of section 3663(b) gives the Commission the authority to determine what information it needs to prepare its report, and to require it by March 15 of each year.

> Not later than March 15 of each year, the Postal Service shall provide to the Postal Rate Commission such data as the Commission may require to prepare the report required under subsection (a) of this section. (Emphasis supplied in original omitted here.)

Reply Comments of UPS in response to Commission order no. 1270, filed January, 2000 (UPS Reply Comments) at 4. UPS and Federal Express (FedEx) observe that Congress placed section 3663 in chapter 36 of the PRA, and that Congress has given the Commission authority to promulgate rules that are necessary and proper to carry out the duties that chapter 36 has assigned to the Commission. UPS Reply Comments at 2–5; Reply Comments of FedEx in response to order no. 1270, filed January 10, 2000 (FedEx Reply Comments) at 1–2.

Section 3603 of the PRA provides:

> The Postal Rate Commission shall promulgate rules and regulations and establish procedures, subject to chapters 5 and 7 of title 5, and take any other action they deem necessary and proper to carry out their functions and obligations to the Government of the United States and the people as prescribed under this chapter. Such rules, regulations, procedures and actions shall not be subject to any change or supervision by the Postal Service.

UPS emphasizes judicial precedent that holds that an ''agency's data selection and choice of statistical methods are entitled to great deference'' where ''sophisticated data evaluations [are] mandated by [a] lengthy and complicated statute.'' It argues that the PRA is such a statute. UPS Reply Comments at 4. The Commission concludes that the view of the Commission's authority expressed by FedEx and UPS is better supported. The PRA requires the Commission to make sophisticated data evaluations with respect to domestic rates. Congress indicated an awareness of this in drafting section 3663. The language of section 3663(b) obligates the Postal Service to provide the Commission with financial data on individual international services ''in sufficient detail'' to enable the Commission to analyze them ''under the methods determined appropriate by the Commission for analysis of rates for domestic mail.'' From this it is reasonable to conclude that Congress intended that the Commission make sophisticated evaluations of the Postal Service's financial data on international services similar to those that it makes with respect to financial data on domestic subclasses in evaluating domestic rate requests. As FedEx and UPS note, the Commission has the authority to promulgate rules that are necessary and proper to carry out its chapter 36 responsibilities.

The Postal Service expresses skepticism that Congress intended the Commission to inquire into the accuracy of its financial data on international mail. The Commission concludes that such intent is strongly implied by the language of section 3663. Section 3663(b) requires the Postal Service to provide data in sufficient detail to enable the Commission to analyze, not just to passively report, the costs, revenues, and volumes of each international mail service. [Emphasis on the word analysis omitted here.] It is reasonable to infer that verifying the accuracy of data is a basic part of the analysis contemplated by Congress. FedEx concurs. FedEx Reply Comments at 2–3, n. 2. Indeed, it is hard to imagine what purpose it would serve for Congress to assign the task of preparing the report on international mail to the Commission rather than the Postal Service, if Congress intended that the Commission simply take the Postal Service's international mail data on faith.

As noted, the Postal Service emphasizes that it has the power under 39 U.S.C. 401(4) to keep its own system of accounts and to determine the forms and contents of its business documents. Rule 103 as proposed would not conflict with this power. Providing these documents to the Commission early enough, and in an edited form that is reliable enough to enable the Commission to perform its chapter 36 duty to analyze and report on international mail, still leaves postal management free to review and refine these documents for its own internal use in whatever form, and to whatever degree, best suits its own internal management objectives. It should be borne in mind that section 401(4) gives the Postal Service the power to keep its own system of accounts and determine what form its business documents will take ''except as otherwise provided in this title.'' Therefore, if an exception to the Postal Service's general section 401(4) powers were thought to be necessary to enable the Commission to obtain the detailed and reliable financial data from the Postal Service that are necessary to prepare its section 3663 report, section 401(4) provides for it.

The Commission's need for the domestic CRA and CSC reports. It seems clear that section 3663 intends that the Commission verify the accuracy of the Postal Service's financial data on international mail as part of its reporting responsibility. It is also clear that section 3663(b), together with section 3603, gives the Commission authority to require the documentation necessary to do so. The question remains whether the Commission needs comprehensive domestic CRA and CSC reports to carry out the Commission's duty to analyze and report on the costs, revenues, and volumes of international mail.

The international CRA shows subtotal attributable costs for processing, delivery, domestic transportation, international transportation, settlement, and all other. The subtotal for processing costs reflects the sum of cost segments 2, 3, and 4. Delivery costs reflect the sum of cost segments 6, 7, 8, 9, 10, and 12. Transportation and settlement costs reflect cost segment 14. All other costs reflect the sum of cost segments 1, 11, 13, 15, 16, 17, 18, 19, and 20. The first examination the Commission performs is to compare the sum of the applicable cost segment amounts in the international C report to the subtotal amounts in the ICRA. The Commission can also compare amounts in the C report for mail processing and city carrier costs to the underlying workpapers that the Postal Service provides in the initial submission and evaluate the accuracy of the attributable cost methods used.

As noted, section 3663(b) requires the Commission to analyze the costs, revenues, and volumes for each international mail product or service,

under the methods determined appropriate by the Commission for the analysis of rates for domestic mail. (Emphasis in original omitted here.) The attribution methods that the Commission applies to domestic subclasses differ from those the Postal Service currently prefers most significantly in cost segments 3 and 7. The Commission needs to verify that its attribution methods have been accurately applied by the Postal Service in determining the portion of these segment costs that the Postal Service attributes to specific international services. To do this, the Commission needs to be able to review the workpapers that underlie cost segments 3 and 7 of the domestic CSC. Only they show in detail how the Postal Service has applied the Commission's attribution methods. To analyze the accuracy of the distribution of other segment costs between all domestic services and all international services the Commission requires not only the domestic CRA and CSC reports, but also the underlying workpapers.

The Commission needs complete domestic CRA and CSC reports because they provide control totals for the total of the costs, revenues, and volumes estimated for the various international services in the ICRA. The domestic CSC report presents attributable costs by component for each domestic subclass and for international mail in aggregate. The international CSC equivalent attributes segment costs to specific international mail services. The sum of the costs attributed to specific international services in the international CSC should equal the sum of costs attributed to international mail in the domestic CSC. Similarly, the sum of the revenues and volumes for specific international services presented in the ICRA should equal the aggregate international volumes and revenues presented in the domestic CRA.

There should be little reason to doubt the value of the control totals provided in the domestic CRA and CSC. Unlike the ICRA, the estimation methods and procedures used in the domestic CRA and CSC have been regularly refined under the intense scrutiny of publicly litigated rate cases. Consequently, the domestic CRA and CSC reports provide the most reliable control totals available for the product-specific financial data in the ICRA. If the ICRA totals match the control total, then the Commission is assured that no domestic costs, revenues, and volumes have found their way into the ICRA and that no international costs, revenues, and volumes have been left out of the ICRA. This is the most fundamental check that the Commission can provide in its report to Congress. Without comprehensive CRA and CSC reports, the Commission cannot provide this assurance.

The Commission also needs a complete domestic CRA to ensure that the treatment of attributable and institutional costs in the ICRA is consistent with their treatment in the domestic CRA. For example, in its FY 1998 ICRA, the Postal Service eliminated costs associated with the ''settlement difference'' (the difference between accrued settlement costs and imputed settlement costs). For the ICRA to be consistent with the domestic CRA, it would appear that the Postal Service should remove these costs from the total accrued costs in the domestic CRA. The Commission could not assure Congress that the treatment of these costs in the ICRA is consistent with their treatment in the domestic CRA unless the Commission has a comprehensive domestic CRA.

Requiring an audited domestic CRA and CSC by May 15. These reports provide detailed statistical estimates of the costs incurred annually by the mail in aggregate and by individual subclasses in particular. They are primarily used to provide the cost basis for pricing and ratemaking. Proposed rule 103 would require the Postal Service to provide PRC versions of the domestic CRA and CSC reports by March 15 of each year, in unaudited form, if necessary. It would require the Postal Service to provide these reports in audited form no later than May 15 of each year. Final rule 103 retains this requirement.

The Postal Service objects to requiring these reports either by a specific date, or in a preliminary form. It argues that because of the complexity of these reports, and the multiple layers of review they undergo, it is unrealistic to require that annual production of these reports could be accelerated to March 15. It warns that requiring its production ''at an early stage'' risks publication of unreliable numbers. The Postal Service asserts that because the CRA and CSC reports are official documents, postal management's policy prerogatives are infringed if the timing of the reviews and policy clearances required to issue the domestic CRA are modified to meet the needs of the Commission.

The Postal Service observes that the PRC version of the domestic CRA is not an official document of the Postal Service, and therefore is not audited and not endorsed by the Postal Service. Nevertheless, it argues the PRC version is a ''variant'' of the official CRA. Therefore, it maintains, requiring production of the PRC version of the domestic CRA by a specific date, or in preliminary form, raises the same objections as if it were the official version. For these reasons, the Postal Service asserts, the Commission should only require that the domestic CRA be provided ''within two weeks'' of internal presentation to Postal Service management, as the Commission's existing periodic reporting rules require. Postal Service Comments at 6–8.

UPS argues that audited versions of the domestic CRA and CSC reports should be required by March 15. It contends that it should not be difficult to produce audited financial data by March 15—more than five months after the close of the fiscal year. It notes that in the private sector, audited financial data are required within 90 days of the end of the fiscal year. UPS Comments at 11–12. It reminds the Postal Service that the March 15 deadline set in section 3663(b) for providing information necessary to prepare the international mail report was not selected at the Commission's discretion, but is mandated by Congress. UPS Reply Comments at 4.

The Postal Service states that it

> strongly believes that rules adopted under the authority of section 3663 should interfere as little as practicable with the production and timing of the Postal Service's internal reports, or with its policies on public issuance and disclosure of externally available reports.

Postal Service Comments at 4. The Commission agrees. That is what rule 103 is designed to do.

In section 3663, Congress assigned the Commission the task of analyzing the costs, revenues, and volumes of individual international services, and assuring that they have been estimated by methods that are consistent with the methods that the Commission applies to domestic mail when recommending domestic rates. In fulfilling this mandate, the most fundamental check that the Commission can make is to match control totals from the domestic CRA and CSC with corresponding amounts in the ICRA, to see if any costs, revenues, or volumes have been misallocated between international and domestic mail. To do this, the Commission requires that complete domestic CRA and CSC reports be provided in time to analyze them.

Congress selected the annual July 1 due date for the Commission's reports, and made the judgment that the Postal Service must provide the data necessary to prepare the report by March 15 of each year, to give the Commission adequate time to analyze the data. The

Commission is aware that the CRA is a complex statistical document that requires careful editing of data from a wide variety of databases before it can be relied on. The Commission is also aware that historically the Postal Service has usually not released its audited version of the domestic CRA until a few weeks before, or a few weeks after, May 15. For this reason, rule 103 defers the due date for an audited domestic CRA from March 15 to May 15. Rule 103 allows the Postal Service two additional months to provide a CRA–PRC version beyond the time that section 3663(b) would otherwise require it. This liberal provision should go most of the way toward satisfying the Postal Service's concern that the section 3663 reporting process impinge as little as possible on its internal timetable for generating its official reports.

In its comments, the Postal Service asks the Commission not to specify the time that it is to provide the domestic CRA. Postal Service Comments at 7–8. The Commission followed this approach in 1999 in preparing its first international mail report. On May 5 the Commission requested the domestic CRA and CSC reports without specifying a due date. The Postal Service provided these reports on June 7. There were apparent discrepancies between totals in the CRA provided on June 7 and the ICRA that it had provided earlier. In the brief time remaining to provide a draft report to the Commission, Commission staff determined that these discrepancies apparently were matters of form rather than substance.

If, at that late date, substantive discrepancies had been found in the domestic CRA, the Commission could have faced the same dilemma that it faced with respect to the ICRA, where substantive changes in cost accounting methods were included in a version provided to the Commission on June 7, 1999. As previously described, the Commission staff was unable to evaluate these changes in the remaining available time. Rather than pass judgment on them, it prepared an alternative ICRA–PRC version that incorporated these new costing methods and presented the resulting cost coverages in an appendix to its report, with a disclaimer as to the soundness of the results. Rule 103 is designed to prevent similar problems arising with respect to the finalized domestic CRA. Because it requires that a finalized domestic CRA be provided by May 15, it should provide the Commission with a reasonable opportunity to resolve substantive discrepancies if they appear, and make any necessary revisions to its report.

Requiring an unaudited domestic CRA and CSC by March 15. Proposed rule 103 would require the Postal Service to provide the Commission an unaudited or preliminary version of the domestic CRA by March 15. The Commission retains this provision in its final rule 103.

The Postal Service objects to this aspect of rule 103, characterizing it as an ''unrealistic'' acceleration of the typical production schedule for the CRA. Postal Service Reply Comments at 14. It also considers it unwise, since preliminary data might be unreliable. Postal Service Comments at 7. Yet, it also asserts that

> [t]his does not mean that use of data and analysis derived from the domestic CRA Report at preliminary stages corrupts production of the ICRA. For the most part, data and information from the CRA process can be relied upon, and its use in the ICRA is independently evaluated.

Id. The Postal Service recognizes that to satisfy section 3663(b) it must provide a reliable, finalized version of the ICRA by March 15 of each year. Id. at 5. In the comment quoted above, the Postal Service recognizes that assertions that it can provide a reliable ICRA by March 15 imply that the CRA from which the ICRA is derived can be developed to the point that it is basically reliable by that date as well. The Postal Service considers it burdensome to have to complete the basic edits on the CRA that would make it, and the ICRA, available by March 15 of each year. But it should be borne in mind that the need to undertake this burden arises from the deadlines mandated by section 3663, rather than the predilections of the Commission. The Postal Service's recent filing in docket no. R2000–1 suggests that it would not be unduly burdensome to provide a preliminary, but basically reliable version of the CRA by March 15 of each year.

C. Additional Descriptive Materials

In its comments, the Office of the Consumer Advocate (OCA) asks that the Commission include in proposed rule 103 a 30-day period for public comment on the adequacy of the information that the Postal Service provides on March 15. The OCA is mindful that the Postal Service considers much of the product-specific cost, revenue, and volume information contained in the ICRA to be commercially sensitive. It argues, however, that descriptions of the processes and methods by which the Postal Service puts together the ICRA and the databases underlying it should not be considered commercially sensitive. Accordingly, it proposes to add a long list of explanations and documentation to the information items listed in proposed rule 103, and to provide a 30-day period for public comment on the adequacy of this documentation. OCA Comments at 7–8.

The OCA proposes that the list of items that rule 103 would require the Postal Service to provide by March 15 include descriptions of how the Postal Service allocates costs that are shared by domestic and international services to those respective services, and descriptions of how costs that are shared by international services are allocated between specific international services. In addition, the OCA proposes that the Postal Service provide descriptions of the product-specific methods that it uses to estimate the costs of, respectively, Global Package Link, Global Priority Mail, Global Direct Services, Global Parcel Services, and International Customized Mail. Id. at 4–5. It proposes that the Postal Service provide full documentation of the data collection and sampling systems, both domestic and international, that contribute to the ICRA, including training manuals and instructions to data collectors. It asks that the Postal Service be required to describe in detail how reports are generated by these systems, and how these reports are used to estimate the costs, revenues, and volumes of individual international services. The specific information items that are covered by its proposal are listed at pages 4–7 of its comments.

Both UPS and FedEx endorse the OCA's proposal to add detailed descriptions of methods and procedures to the items required by rule 103, and its proposal that there be a 30-day period for public comment. FedEx Reply Comments at 3, UPS Reply Comments at 13–14.

The Postal Service disagrees. It argues that section 3663 does not call for a public documentation exercise, just a cooperative effort between the Postal Service and the Commission. It argues that supervising a public debate over documentation requirements would needlessly tie up the Commission at a time when it is trying to produce the required report. The Postal Service asserts that the OCA's proposal is focused less on the information that the Commission needs to prepare its report than on the information that the lay public might need to accomplish the same task. Postal Service Reply Comments at 2–3.

The OCA's carefully crafted proposal has laudable objectives, but for practical reasons, the Commission has decided against expanding the list of items that the Postal Service must provide by March 15 contained in proposed rule

103. Under rule 103, as proposed and as adopted, the Commission would already receive the documentation of the international mail reports and data collection systems called for by the OCA. In that documentation, the Postal Service historically has included descriptions of any changes that it has made to estimation methods that affect international mail. We trust that this practice will continue.

Documentation of system-wide data sampling systems, such as the In-Office Cost System, the Revenue, Pieces, and Weight system, the Carrier Cost System, and TRACS, is a significant undertaking that up to now has been required only in omnibus rate cases. The Commission considers it unnecessary to require that the Postal Service prepare in-depth documentation of its system-wide financial reports and data systems every year by March 15. Due to the Postal Service's complaints about resource constraints, the Commission has scaled back somewhat its list of information items required by March 15 in order to make the Service's section 3663(b) obligations somewhat less onerous. Requiring in-depth documentation of its domestic data systems by that date is likely to compound the difficulties that the Postal Service describes in providing the ICRA and a preliminary version of the CRA by that date. If, in the brief time that the Commission has after March 15 to prepare its report, the Commission perceives a specific need for fresh documentation of domestic data systems, it will ask the Postal Service for selective supplements of the documentation that it customarily provides in omnibus rate cases.

D. Implied Discount for Inbound International Services

FedEx argues that in terms of cost coverages, the compensation that the Postal Service receives for handling and delivering categories of inbound international mail is substantially less than the compensation that it receives for handling and delivering corresponding categories of domestic mail. It argues that these disparities in cost coverage are, in effect, discounts that the Postal Service offers to foreign postal administrations on inbound mail service. It argues that the Postal Service receives reciprocal discounts from foreign postal administrations for delivering mail that they receive from the Postal Service. FedEx argues that these reciprocal discounts are hidden costs of offering outbound service, and serve to reduce the real cost coverage on those services. FedEx notes that this issue was raised in the questions concerning the Commission's first international mail report that were posed to the Commission by the House Postal Service Subcommittee. See the NPRM in this docket (order no. 1270) at 7.

According to FedEx, accounting for this discount is ''the central analytical issue'' that the Commission's international mail report should address. FedEx Comments at 5. FedEx argues that the Commission's report should estimate the extent of the implied discount offered on each inbound service and add it to its corresponding outbound service, as though it were an attributable cost of the outbound service. This, FedEx contends, would yield a true picture of the effective cost coverages being earned by the Postal Service's various outbound international services. FedEx Comments at 15–16.

To accurately calculate the implied discount, the Commission would have to have information on inbound mail comparable to the billing determinant information that the Postal Service collects on domestic mail, as well as additional information on the content of inbound mail. For example, if it were assumed that inbound single-piece letters would be charged First-Class single-piece rates if they were domestic mail, it would be necessary to know the volume of those letters by ounce increment, in order to infer a domestic price.

FedEx appears to recognize that such information would be needed to perform the analysis that it advocates. To obtain that information, it proposes to add the following to the information that rule 103 would require by March 15 of each year.

(n) For each inbound mail service and each terminal dues regime, the Postal Service shall provide (i) an analysis, by pieces and weight, of the distribution of such mail among classes of domestic mail, (ii) an estimate of the costs and revenues associated with each such domestic mail class; and (iii) an estimate of the revenue that would have been received if such mail had been posted at domestic postage rates; the Postal Service shall also provide all associated documentation and workpapers.

FedEx Comments at 6. FedEx also recognizes that associating specific inbound services with specific domestic counterparts will be a difficult undertaking. To help the Commission accomplish this task, FedEx proposes adding the following provision to rule 103.

(o) For each outbound mail service for which (i) foreign delivery is not purchased at a market rate available to competitors of the Postal Service and (ii) the Postal Service provides significant services to the foreign entity providing delivery, the Postal Service shall provide a method of associating with that outbound mail service the costs and revenues of one or more inbound mail services provided the foreign entity; the Postal Service shall also provide all associated documentation and workpapers.

UPS agrees with FedEx that the delivery of inbound mail is inextricably tied to the Postal Service's use of foreign postal administrations to deliver its outbound mail. It argues that any losses incurred on inbound mail should be borne by the corresponding category of outbound mail. UPS Comments at 12–13.

The Postal Service replies that there is no indication in section 3663 or its legislative history to indicate that the purpose of the Commission's international mail report was to account for any alleged discount offered to foreign postal administrations. Postal Service Reply Comments at 4. The Postal Service says that it is a misconception to view the terminal dues rates that it charges for delivering the mail of foreign posts as discounts from the rates charged domestic mail. It emphasizes that delivering the mail of foreign posts is an obligation of membership in the Universal Postal Union (UPU). It argues that in establishing uniform UPU terminal dues rates, the members do not view inbound international mail as analogous to domestic mail, whose rates are typically set by each member post to recover a specific share of the costs of its domestic network. Instead, it argues, inbound international mail has its own unique costs, product features, and service times, which the uniform terminal dues rates reflect.

The Postal Service insists that it could not sell domestic delivery to the various categories of mail from foreign posts as though it were discounted domestic service. It contends the various categories of inbound mail cannot be mapped to particular categories of domestic mail in terms of content, size and weight profiles, mail preparation, or service characteristics. It questions whether such mapping could be done in the future. It comments that it is naive to assume that existing data systems can be modified to provide data that is sufficiently detailed to allow inbound services to be mapped to domestic subclasses. It notes that demand elasticities for international mail are generally much higher than for domestic mail, implying that if the various categories of inbound mail were to be priced as domestic mail, they would generally receive lower markups. Id. at 6–7, 9.

The Postal Service insists that rates for outbound international mail are based entirely on the costs of outbound mail, and are not influenced in any way by the costs or revenues of inbound mail. Id. at 8. The Postal Service asserts that a causal connection between outbound rates and inbound costs and revenues would be difficult to demonstrate because many outbound services do not have a corresponding inbound category of mail. It cites International Priority Airmail and International Surface Airlift as examples of outbound mail services that have no inbound counterpart.

Historically, UPU terminal dues for Letters and Cards, and ''Autres Objets'' (LC/AO) mail have been based on an estimate of the average cost of domestic delivery of foreign-origin mail by the posts of a broad cross-section of members of the UPU, rather than the domestic rates of specific member countries. Although there is little empirical evidence that current terminal dues for LC/AO mail now are based primarily on the rates and net revenues charged for domestic mail of like kind, this situation soon will change. By the year 2001, UPU rates for LC/AO mail between industrialized countries are scheduled to be set as a percentage of the rates charged for corresponding domestic categories. In order to determine what terminal dues to charge in 2001, the Postal Service will soon have to gather data that is sufficiently detailed to map inbound LC/AO mail to corresponding domestic categories. While it appears to be premature to incorporate data requirements in rule 103 designed to make such judgments, meeting such requirements should be more feasible in the future.

II. Analytical Methods Used in the Report

A. Accounting Method Applied to International Air Transportation Costs and to the Settlement Difference

The Postal Service changed its method of accounting for international air transportation costs and for settlement expenses between the ICRA–PRC version which it provided to the Commission on March 15, 1999, and the ICRA–USPS version that it provided on June 7, 1999. As explained in appendix F of the Commission's FY 1998 international mail report, accrued international air transportation costs are projections based on the historical level of payments to air carriers. Imputed air transportation costs are calculated by multiplying outbound volumes by unit air transportation charges, based on initial actual air bills.

Sometime after the close of the fiscal year, the Postal Service revises the initial air bills to reflect subsequent corrections. In the ICRA report that the Postal Service provided to the Commission in March 1999, it developed imputed international air transportation costs without the benefit of knowing all the corrections made to the initial air bills. However, at some point in the process of producing the ICRA, the revised actual costs become available. By aggregating the revised actual costs and the imputed costs, and calculating the ratio of revised cost to imputed costs, the Postal Service created an adjustment factor to apply to the international air transportation costs in the ICRA, by service and country grouping.

In the version of the ICRA that the Postal Service provided on March 15, it adjusted imputed attributable international air transportation cost by service to the accrued level. In the June version, it revised international air transportation costs by service to reflect only the actual payment to airlines in FY 1998. Accrued settlement charges are book costs. They are projections based on historical levels of settlement charges. Imputed settlement charges are calculated by multiplying volumes recorded by the Military and International Accounting and Dispatch System (MIDAS) by known settlement charges. Imputed amounts are relied on in the ICRA because there can be a lag of several years before corrections to the imputed amounts are completed. In the ICRA that the Postal Service provided on March 15, the Postal Service treated the difference between actual and accrued settlement expenses as a cost that is incremental to international mail as a whole. In the June 7 version of the ICRA, the Postal Service eliminated the settlement difference cost.

Because there was not enough time for the Commission to adequately evaluate these changes in accounting treatments in its report, the Commission presented alternative financial results under both the old and the new methods. See appendix F to the Commission's FY 1998 international mail report. The NPRM invited public comment on the merits of these changes in accounting methods used by the Postal Service. Order no. 1270 at 13–14.

UPS comments that the explanations of these changes in accounting methods have not been sufficiently clear for it to evaluate their merits. It observes that in principle, the accrual method matches costs with the production of services more accurately than the cash method, citing Financial Accounting Standards Board Statement of Financial Accounting Concepts No. 1. It argues that without more detailed explanations, there should be a presumption that the accrual method is superior. UPS Comments at 12–13.

The Postal Service replies that the accrual method is less accurate than the cash method with respect to both air transportation and settlement costs, particularly in FY 1998. The Postal Service states that it conducted an analysis in FY 1999 that caused it to adjust accrued air transportation costs. It then says

> [t]he effect is that the accrued costs for FY 1999, including the prior year adjustments, dramatically understate the cost consequences of the mail carried during that year. We expect that beginning with FY 2000, it will be reasonable to return to the use of accrued costs for this item.

Postal Service Reply Comments at 12. The Postal Service will be asked to explain in more detail what the nature of the adjustments made during FY 1999 were, and why a change to the accrual method will be reasonable in FY 2000.

With respect to the settlement difference, the Postal Service states that imputed costs will be consistently more accurate than accrued costs. It explains that the long lags before actual charges can be compiled lead to relatively large adjustments in such things as the actual Special Drawing Right conversion rate to be applied. Id.

Both the air transportation charge and the settlement charge adjustments appear to represent judgments by the Postal Service that, at least for FY 1999, it should not try to tie actual amounts back to book costs because the book costs are likely to prove to be substantially different from the actual charges when they become available. The Postal Service will be asked to explain whether it will attempt to revise its total accrued costs to conform to the imputed or actual costs for air transportation and settlement charges that it apparently intends to use in its FY 1999 ICRA.

B. Accounting for International Express Mail Service Imbalance Charges

With respect to inbound international Express Mail Service (EMS), the Commission's FY 1998 international mail report, at 38, comments that ''[a]chieving a positive outcome for EMS should not pose a problem as the Postal Service is free to enter bilateral agreements * * * in which rates can be cost based.'' Referencing this passage, UPS says that it is not clear whether EMS covers its costs. It observes that the charges for domestic delivery of foreign-origin EMS take the form of ''imbalance charges'' negotiated between country

pairs. It says that its understanding is that imbalance charges are assessed only on the net amount that one country imports from the other, and for that reason, a complete financial picture for EMS requires that outbound and inbound EMS data be combined. UPS Comments at 13–14.

The Postal Service replies that none of its various compensation arrangements for exchanging EMS are accounted for by focusing on net flows between country pairs. Postal Service Reply Comments at 13.

The Commission's interpretation of the Postal Service's response is that even if the Postal Service's payments for domestic delivery of EMS are based on net amounts, it carries gross outbound and inbound numbers on its books, as it does for other international mail classes. The Commission will verify with the Postal Service whether this understanding is correct.

III. Contents of the International Mail Report

The Commission's initial report on international mail under section 3663 was issued on July 1, 1999. The Commission's NPRM did not propose any rules that would apply to the content of its report. But, recognizing that the content of the report has a bearing on the data that is considered necessary to prepare it, the Commission invited comments on the contents of its report as well.

A. Reporting Financial Data Individually for ''Initiatives''

UPS argues that the report should include volumes, revenues, costs, and cost coverages for each individual international service, including the so-called ''initiatives'' that the Postal Service considers especially sensitive, and that these estimates should be disclosed to the public. Otherwise, it argues, there is no way for the public to judge the fairness of the rates for individual international services. UPS Reply Comments at 9–12.

The international ''initiatives'' are Global Priority Mail, Global Package Link, Direct Entry, and International Customized Mail. UPS states that the Commission's report ''aggregates'' volume, cost, and revenue information for these services, citing page 34 of the report, and urges that the report display data on these services individually. UPS Reply Comments at 9. The Commission's report to Congress, at page 34, and at page 9, displays data for these services individually. UPS' comments may have been based on the redacted version of the report that it received in response to the request that it filed under the Freedom of Information Act (FOIA).

B. Reporting Various Unit Measures as Benchmarks

FedEx proposes that the Commission's international mail report be extended to include unit measures of the financial aspects of international mail that can be compared to known, standard unit measures from other fields. For example, it proposes that the report compare the unit cost of air transportation for LC and AO mail (other than International Surface Airlift) to the air transportation rates established by the Department of Transportation. It offers, as another example, comparing the ''unit cost of foreign post delivery, by terminal dues regime, with the terminal dues set by the UPU.'' FedEx Comments at 18–19. The Commission agrees that standard unit measures of financial performance drawn from other sectors might usefully be compared to those of international mail. It will consider presenting such comparisons in future reports.

C. Reporting Inbound ''discounts'' as Outbound Costs

As previously noted, FedEx argues that the Commission's report should combine costs, revenues, and volumes for inbound services with those of their associated outbound services to display joint cost coverages. It also argues that the Commission's report should treat the discount offered on each individual inbound service as a cost of the associated outbound service. FedEx Comments at 8. UPS generally agrees. UPS Reply Comments at 12–13. The Postal Service replies that terminal dues rates cannot be viewed as discounts from the rates that inbound mail would be charged if it were domestic mail. Postal Service Reply Comments at 4–11.

In its initial international mail report, the Commission presented estimates of the costs, revenues, and volumes of inbound and outbound international services combined, where it had a reasonable basis for mapping a given inbound service to an analogous outbound service. It intends to make a similar presentation in future reports.

IV. Public Disclosure Procedures

The Commission's NPRM did not focus on the issue of public disclosure. The Commission, nevertheless, thought that it would be useful to invite comments on the procedures that the Commission should employ to determine what portions of its international mail report or supporting documents should not be publicly disclosed, what criteria or standards should govern that determination, what categories of commercial information meet those standards, and the basis for that belief. Order No. 1270 at 14. A number of proposals were received in response.

UPS proposed that the Postal Service accompany the information that it provides on March 15 of each year with an indication of the portions that it believes are too commercially sensitive to be publicly disclosed. The public would be given 30 days to respond to the Postal Service claims, and the Postal Service would have 30 days to reply. The Commission would then resolve any public disclosure issues in its international mail report, and disclose the information that it concludes should be made public. UPS Comments at 10. Similarly, FedEx proposes that rule 103 require the Postal Service to accompany the information that it submits on March 15 of each year with an indication of the information that, in its judgment, would qualify for non-disclosure under alternative legal standards. FedEx proposes that the Commission accompany its section 3663 report with appendices showing what information the Commission concludes is exempt from public disclosure under those same standards. It implies that these appendices would provide Congress with detailed guidance to aid it in resolving the disclosure issue. FedEx Comments at 17–18.

The Postal Service emphasizes that in docket no. IM99–1, the Commission declined requests to create a special procedure for obtaining public access to information provided under the section 3663 reporting process. In that docket, the Postal Service notes, the Commission concluded that Congress intended public disclosure of materials provided under section 3663 to be governed by existing public disclosure laws and policies. Postal Service Comments at 18.

The Commission continues to believe that Congress did not intend that section 3663 override existing information disclosure laws and policies, or the procedures that they provide. Accordingly, existing disclosure procedures should govern disclosure issues arising under section 3663. These are essentially the procedures that the FOIA provides. See docket no. IM99–1, Order Denying UPS Motion to Provide Public Access to International Mail Data, issued May 21, 1999, at 4. Consistent with these conclusions, the Commission has not incorporated special public disclosure procedures in final rule 103.

The feasibility of these proposals warrant comment as well. The

Commission recognizes that requiring annual, comprehensive disclosure evaluations could accelerate resolution of disclosure issues, especially if it is expected that blanket disclosure requests will be routinely lodged for these data. But these proposals would require that disclosure evaluations be performed during the same limited periods that are available to the Postal Service to compile and edit these data, and to the Commission to substantively evaluate them. It is a formidable task to apply subjective legal disclosure standards in a consistent manner, cell by cell, to thousands of pages of hardcopy spreadsheets and thousands more of electronic spreadsheets, as disclosure law arguably requires. Substantial time and resource constraints make it difficult to undertake both very different kinds of evaluations simultaneously.

V. Public Disclosure Standards

Proposed rule 103 refers to a list of reports relevant to international mail that the Postal Service is required to provide by March 15 of each year. It then states that

> [i]nformation contained in these reports that is considered to be commercially sensitive should be identified as such, and will not be publicly disclosed except as required by applicable law.

The NPRM invited comments on the legal standard that should govern the determination of what information should be considered commercially sensitive. Order no. 1270 at 14.

Section 410(c)(2) of title 39 authorizes the Postal Service to withhold commercial information that would not be disclosed ''under good business practice.'' In the NPRM, the Commission summarized earlier orders in which the Commission concludes, based on several Federal court precedents, that section 410(c)(2) is a statutory withholding provision that is exempt from the disclosure requirements of the FOIA under exemption 3 of that Act. Order no. 1270 at 10. Consequently, the Commission concluded, the stricter standard that courts have applied to determine whether commercial information is exempt under exemption 4 of the FOIA does not apply to the commercial records of the Postal Service, at least in the section 3663 context. Federal courts generally require a showing that disclosure is likely to cause substantial competitive harm before they will authorize withholding of agency records under exemption 4.

A. Standard Proposed by UPS

UPS proposes that rule 103 incorporate the following standard

> The entire report and all of the information used to prepare the report shall be made available to the public when the report is issued, unless (1) such disclosure will result in specific identifiable and serious injury to the Postal Service, and (2) the interest of the public in full disclosure is outweighed by such injury.

UPS Comments at 9.

UPS argues that in order to accomplish what it perceives to be the Congressional purpose underlying section 3663, the burden required to justify withholding information under FOIA exemption 4, and in civil litigation concerning trade secrets, is a more appropriate withholding criterion to apply to information provided under section 3663. UPS further argues that the public interest is especially strong in obtaining information about the commercial activities of the Federal government, making the appropriate burden even greater. UPS contends that the language that it proposes to add to rule 103 reflects the appropriate burden that should be required to justify withholding information provided to the Commission under section 3663. UPS appears to argue that the applicability of this balancing analysis is supported, at least indirectly, by the opinion in *National Western Life Insurance Co.* v. *United States,* 512 F. Supp. 454 (N.D. Tex. 1980). UPS Comments at 2–9.

B. Standards Proposed by FedEx

FedEx proposes that rule 103 incorporate the following language

> Information contained in these reports that is considered to be commercially sensitive under (i) the standard set out in 39 U.S.C. 410(c) of the Postal Reorganization Act or (ii) the standard of public disclosure applied by the Commission in public hearings conducted under the Administrative Procedure Act should be identified as such, and will not be publicly disclosed except as required by applicable law.

FedEx Comments at 18. FedEx argues that the Congressional purpose underlying section 3663 was to protect competitors and mailers from unfair international mail practices by the Postal Service, and that public disclosure is one of the remedies most commonly used by Congress. While the ''good business practice'' withholding standard of section 410(c)(2) may apply to disclosure requests made by the public, it argues, Congress is not subject to that withholding provision.

FedEx urges that in its international mail report, the Commission identify information that it considers commercially sensitive under alternative withholding standards. One would be the ''good business practice'' standard applicable to disclosure requests made by the public. The other would be the stricter standard applicable in the Commission's formal rate hearings (essentially the ''substantial competitive harm'' standard applied in FOIA cases interpreting exemption 4). This, FedEx suggests, would give Congress guidance as to what information to disclose if it concludes that the latter withholding standard is more appropriate for information provided under section 3663. Id. at 17–18.

C. Standard Proposed by Reporters Committee

In its comments, at 1–2, the Reporters Committee on Freedom of the Press (Reporters Committee), proposes that the following sentence be eliminated from proposed rule 103.

> Information contained in these reports that is considered to be commercially sensitive should be identified as such, and will not be publicly disclosed except as required by applicable law.

The Reporters Committee interprets this language as embracing a presumption against disclosure that assumes that the withholding standard in section 410(c)(2) is applicable to section 3663 information. It argues that the section 410(c)(2) standard does not apply, and that the above-quoted language should be deleted from rule 103.

The Reporters Committee contends that the section 410(c)(2) standard should not apply to section 3663 information because it is not a statutory withholding provision that is exempt from the FOIA disclosure requirements under exemption 3. To bring a statutory withholding provision under exemption 3, the provision must require that matter be withheld in a manner that leaves the agency ''no discretion on the issue'' [5 U.S.C. 552(b)(3)(A)] or ''establishes particular criteria for withholding or refers to particular types of matters to be withheld'' [5 U.S.C. 552(b)(3)(B)]. The Reporters Committee argues that section 410(c)(2) would not qualify under either part A or part B, under the holding in *Church of Scientology of California* v. *United States Postal Service,* 633 F.2d 1327 (9th Cir. 1980).

Section 410(c)(6) allows the Postal Service to withhold ''investigatory files compiled for law enforcement purposes.'' The court in *Church of Scientology* rejected the Postal Service's argument that section 410(c)(6) qualifies as exempt from FOIA under part B. It held that section 410(c)(6) did not

display a clear Congressional intent that all of the Postal Service's investigatory files be exempt from FOIA. The court further held that section 410(c)(6) impermissibly allows the Postal Service, rather than Congress, to decide what kind of investigatory files would be hazardous to disclose.

The Reporters Committee contends that by authorizing the Postal Service to withhold commercial information that would not be disclosed under ''good business practice,'' section 410(c)(2) exhibits the same infirmities that the *Church of Scientology* court identified in section 410(c)(6). Because section 410(c)(2) should not qualify as an exemption 3 statute, it argues, the withholding criteria of exemption 4 should apply to section 3663 information.

In its reply comments, the Postal Service argues that the Commission has correctly concluded that FOIA procedures should govern requests for section 3663 information, and that under those procedures, section 410(c)(2) becomes the operable disclosure standard. It points out that those who object to applying the ''good business practice'' standard of section 410(c)(2) to section 3663 information do not attempt to distinguish the two Federal court precedents that expressly hold that section 410(c)(2) qualifies as an exemption 3 statute, or acknowledge that the Commission has followed these precedents in denying access to the same type of information and records covered by rule 103. See Order no. 1261 at 3–7, citing *Weres Corporation* v. *United States Postal Service,* C.A. No. 95–1984, at 3–5 (D.D.C. 1996) (unpublished memorandum opinion); and *National Western Life,* 512 F.Supp. 454 at 458–59. The Postal Service argues that the holding in *Church of Scientology* is of little relevance because it interprets section 410(c)(6) rather than section 410(c)(2). It argues that the result turns on the fact that after section 410(c)(6) was adopted, Congress revealed its hostility to broad exemptions for investigatory files by amending and narrowing an almost identical provision authorizing agencies in general to withhold investigatory files (the original version of FOIA exemption 7).

When it sought comments on the disclosure standards that should apply to section 3663 information, the Commission anticipated that comments would focus primarily on interpretations of the ''good business practice'' standard of section 410(c)(2). The comments appear to assume that the withholding standard to be applied is a matter of Commission discretion. Consequently, the comments focus on alternative withholding standards that commenters propose.

The Commission acknowledges that in *Church of Scientology,* the general criteria that the Court articulated for determining whether a statute qualifies as exempt from the FOIA under 5 U.S.C. 552(b)(3)(B) differ somewhat from the criteria applied in *Weres* and *Western Life,* which makes the weight of their authority somewhat less clear. Nonetheless, the Commission concurs in the observations of the Postal Service that existing Federal court precedents holding that section 410(c)(2) qualifies as an exemption 3 withholding statute are controlling, and that the ''good business practice'' standard applies to section 3663 information. Accordingly, the Commission will continue to apply that standard in determining whether specific section 3663 information should be disclosed.

For the reasons discussed above, the Commission hereby adopts new 39 CFR 3001.103, as set forth in the attachment to this order. [The material in the attachment appears in the **Federal Register** following the preamble.]

Ordering paragraphs. Ordering paragraph no. 1 states that the Commission adopts the provision set out in the attachment as final rule 39 CFR 3001.103. Ordering paragraph no. 2 states that this rule is effective upon publication in the **Federal Register**. Ordering paragraph no. 3 states that the Secretary shall cause this order to be published in the **Federal Register**. [Order 1285 (signed by Commission Secretary Margaret P. Crenshaw) was issued by the Commission on February 15, 2000.]

List of Subjects in 39 CFR Part 3001

Administrative practice and procedure; Postal Service.

For the reasons stated in the preamble, the Postal Rate Commission amends 39 CFR part 3001 as follows:

PART 3001—RULES OF PRACTICE AND PROCEDURE

The authority citation for part 3001 is revised to read as follows:

Authority: 39 U.S.C. 404(b); 3603, 3622–24, 3661, 3662, 3663.

2. Add § 3001.103 to subpart G to read as follows:

§ 3001.103 Filing of reports required by 39 U.S.C. 3663(b).

Each report listed in this section shall be filed with the Secretary of the Commission on or before March 15th of each year unless a later date is specified, and shall cover the most recent full fiscal year. Information contained in these reports that is considered to be commercially sensitive should be identified as such, and will not be publicly disclosed except as required by applicable law. Specific sources cited in this section should be understood to include any successor or substituted source.

(a) The International Cost and Revenue Analysis—PRC Version.

(b) The International Cost and Revenue Analysis—USPS Version, by May 15.

(c) The Cost and Revenue Analysis Report—PRC Version. If an unaudited version is provided on March 15, provide an audited version no later than May 15. The audited version shall include a statement describing all adjustments that affect international mail.

(d) The Cost Segments and Components Report—PRC Version. If an unaudited version is provided on March 15, provide an audited version no later than May 15. The audited version shall include a statement describing all adjustments that affect international mail.

(e) Documentation and workpapers for the ICRA, including those related to:

(1) Terminal dues.

(2) Air conveyance dues.

(3) Transit charges.

(4) Imbalance charges.

(5) Inward land charges.

(6) Description of cost allocation procedures.

(7) Identification of costs that are exclusive to international mail.

(8) The cost of joint ventures with other postal administrations.

(9) International billing determinants.

(10) The data for Direct Entry separated between inbound and outbound as in the Postal Service's response to Item 1 of order no. 1246.

(11) The attributable costs for ValuePost/Canada developed in accordance with the procedure described in the Postal Service's response to Item 2 of order no. 1251, or any alternative procedure deemed appropriate as a basis for setting the rates for ValuePost/Canada. Costs for ValuePost/Canada should be separated between publications and all other printed matter.

(12) Revenues and volumes for Value Post/Canada separated between publications and all other printed matter.

(f) Handbooks pertaining to the collection of volume and revenue data (MIDAS, SIRVO, SIRVI, Other) if they were revised or replaced since they were last submitted.

(g) International CRA manual input, A, B, C, and factor reports on a CD–ROM.

(h) A hard copy of the International CRA manual input and the C report International CRA manual input, A, B, C, and factor reports on a CD–ROM.

(i) Cost Segment 3 CRA Worksheets and all supporting files, including the MODS-Based Costing Studies—PRC Version. Include all databases, SAS and other programs, and output worksheets.

(j) Cost Segment 7 CRA Worksheets and all supporting files.

(k) The number of weighted tallies by international service separately for clerks and mailhandlers, and for city delivery carriers in-office; clerk and mailhandler tallies should be further separated for mail processing, window service, and all other.

(l) Coefficients of variation for:

(1) IOCS clerk and mailhandler tallies by mail processing, window service, and all other.

(2) IOCS city delivery carriers in-office.

(3) TRACS for purchased transportation by international, air, railroad, and other.

(4) Outbound volume by international service.

(5) Inbound volume by international service.

(m) The percentage of household and the percentage of non-household mail for each outbound mail service.

(n) The percentage of single-piece mail and bulk mail for each outbound service.

Dated: February 18, 2000.

Cyril J. Pittack,

Acting Secretary.

[FR Doc. 00–4427 Filed 2–24–00; 8:45 am]

BILLING CODE 7715–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[GA51–200011a; FRL–6541–5]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Georgia

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The United States Environmental Protection Agency (EPA) is approving the section 111(d) Plan submitted by the Georgia Department of Natural Resources (DNR) for the State of Georgia on September 15, 1998, to implement and enforce the Emissions Guidelines (EG) for existing Hospital/Medical/Infectious Waste Incinerator (HMIWI) units.

DATES: This direct final rule is effective on April 25, 2000, without further notice, unless EPA receives adverse comment by March 27, 2000. If EPA receives adverse comment, we will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: You should address comments on this action to Scott Martin, EPA Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104. Copies of all materials considered in this rulemaking may be examined during normal business hours at the following locations: EPA Region 4, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104; and at the Georgia Department of Natural Resources, Air Protection Branch, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354.

FOR FURTHER INFORMATION CONTACT: Scott Martin at (404) 562–9036 or Scott Davis at (404) 562–9127.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. What Action Is Being Taken by EPA Today?

We are approving the Georgia State Plan, as submitted on September 15, 1998, for the control of air emissions from HMIWIs, except for those HMIWIs located in Indian Country. When EPA developed our New Source Performance Standard (NSPS) for HMIWIs, we also developed EG to control air emissions from older HMIWIs. (See 62 FR 48348–48391, September 15, 1997, 40 CFR part 60, subpart Ce (Emission Guidelines and Compliance Times for HMIWIs) and subpart Ec (Standards of Performance for HMIWIs for Which Construction is Commenced After June 20, 1996)). The Georgia DNR developed a State Plan, as required by sections 111(d) and 129 of the Clean Air Act as amended in 1990 (the Act), to adopt the EG into their body of regulations, and we are acting today to approve it.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in a separate document in this **Federal Register** publication, we are proposing to approve the revision should significant, material, and adverse comments be filed. This action is effective April 25, 2000, unless by March 27, 2000, adverse or critical comments are received. If we receive such comments, this rule will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, this action is effective April 25, 2000.

II. The HMIWI State Plan Requirement

What Is a HMIWI State Plan?

A HMIWI State Plan is a plan to control air pollutant emissions from existing incinerators which burn hospital waste or medical/infectious waste. The plan also includes source and emission inventories of these incinerators in the State.

Why Are We Requiring Georgia To Submit a HMIWI State Plan?

States are required under sections 111(d) and 129 of the Act to submit State Plans to control emissions from existing HMIWIs in the State. The State Plan requirement was triggered when EPA published the EG for HMIWIs under 40 CFR part 60, subpart Ce (see 62 FR 48348, September 15, 1997).

Under section 129, EPA is required to promulgate EG for several types of existing solid waste incinerators. These EG establish the Maximum Achievable Control Technology (MACT) standards that States must adopt to comply with the Act. The HMIWI EG also establishes requirements for monitoring, operator training, permits, and a waste management plan that must be included in State Plans.

The intent of the State Plan requirement is to reduce several types of air pollutants associated with waste incineration.

Why Do We Need To Regulate Air Emissions From HMIWIs?

The State Plan establishes control requirements which reduce the

following emissions from HMIWIs: particulate matter; sulfur dioxide; hydrogen chloride; nitrogen oxides; carbon monoxide; lead; cadmium; mercury; and dioxin/furans. These pollutants can cause adverse effects to the public health and the environment. Dioxin, lead, and mercury bioaccumulate through the food web. Serious developmental and adult effects in humans, primarily damage to the nervous system, have been associated with exposures to mercury. Exposure to dioxin and furans can cause skin disorders, cancer, and reproductive effects such as endometriosis. Dioxin and furans can also affect the immune system. Acid gases affect the respiratory tract, as well as contribute to the acid rain that damages lakes and harms forests and buildings. Exposure to particulate matter has been linked with adverse health effects, including aggravation of existing respiratory and cardiovascular disease and increased risk of premature death. Nitrogen oxide emissions contribute to the formation of ground level ozone, which is associated with a number of adverse health and environmental effects.

What Criteria Must a HMIWI State Plan Meet To Be Approved?

The criteria for approving a HMIWI State Plan include requirements from sections 111(d) and 129 of the Act and 40 CFR part 60, subpart B. Under the requirements of sections 111(d) and 129 of the Act, a State Plan must be at least as protective as the EG regarding applicability, emission limits, compliance schedules, performance testing, monitoring and inspections, operator training and certification, waste management plans, and recordkeeping and reporting. Under section 129(e), State Plans must ensure that affected HMIWI facilities submit Title V permit applications to the State by September 15, 2000. Under the requirements of 40 CFR part 60, subpart B, the criteria for an approvable section 111(d) plan include demonstration of legal authority, enforceable mechanisms, public participation documentation, source and emission inventories, and a State progress report commitment.

III. What Does the Georgia State Plan Contain?

The Georgia DNR adopted the Federal NSPS and EG for HMIWIs by reference into the Georgia Rule for Air Quality Control, Chapter 391–3–1–.02(2)(iii), and sections 2.117.2, 2.117.3, and 2.117.4 of the Georgia DNR Procedures for Testing and Monitoring Sources of Air Pollutants. The State rules were effective on June 15, 1998. The Georgia State Plan contains:

1. A demonstration of the State's legal authority to implement the section 111(d) State Plan;
2. State rules, Chapter 391–3–1–.02(2)(iii) and sections 2.117.2, 2.117.3, and 2.117.4, as the enforceable mechanism;
3. An inventory of approximately 138 known designated facilities, along with estimates of their potential air emissions;
4. Emission limits that are as protective as the EG;
5. A compliance date of March 15, 2000;
6. Testing, monitoring, reporting and recordkeeping requirements for the designated facilities;
7. Records from the public hearing on the State Plan; and
8. Provisions for progress reports to EPA.

IV. Is My HMIWI Subject to These Regulations?

The EG for existing HMIWIs affect any HMIWI built on or before June 20, 1996. If your facility meets this criterion, you are subject to these regulations.

V. What Steps Do I Need To Take?

You must meet the requirements listed in the Georgia Rule for Air Quality Control, Chapter 391–3–1–.02(2)(iii), and sections 2.117.2, 2.117.3, and 2.117.4 of the Georgia DNR Procedures for Testing and Monitoring Sources of Air Pollutants, summarized as follows:

1. Determine the size of your incinerator by establishing its maximum design capacity.
2. Each size category of HMIWI has certain emission limits established which your incinerator must meet. See Table 1 of 40 CFR part 60, subpart Ce, to determine the specific emission limits which apply to you. The emission limits apply at all times, except during startup, shutdown, or malfunctions, provided that no waste has been charged during these events. (40 CFR 60.33e, as listed at 62 FR 48382, September 15, 1997).
3. There are provisions to address small rural incinerators (40 CFR 60.33e(b), 60.36e, 60.37e(c)(d), and 60.38e(b), as listed at 62 FR 48380, September 15, 1997).
4. You must meet a 10% opacity limit on your discharge, averaged over a six-minute block of time (40 CFR 60.33e(c), as listed at 62 FR 48380, September 15, 1997).
5. You must have a qualified HMIWI operator available to supervise the operation of your incinerator. This operator must be trained and qualified through a State-approved program, or a training program that meets the requirements listed under 40 CFR 60.53c(c) (40 CFR 60.34e, as listed at 62 FR 48380).
6. Your operator must be certified, as discussed in 5 above, no later than one year after EPA approval of this Georgia State Plan (40 CFR 60.39e(e), as listed at 62 FR 48382).
7. You must develop and submit to Georgia DNR a waste management plan. This plan must be developed under guidance provided by the American Hospital Association publication, An Ounce of Prevention: Waste Reduction Strategies for Health Care Facilities, 1993, and must be submitted to Georgia DNR no later than one year after EPA approval of this State Plan (40 CFR 60.35e, as listed at 62 FR 48380).
8. You must conduct an initial performance test to determine your incinerator's compliance with these emission limits. This performance test must be completed by March 15, 2000.
9. You must install and maintain devices to monitor the parameters listed under Table 3 to subpart Ec (40 CFR 60.37e(c), as listed at 62 FR 48381).
10. You must document and maintain information concerning pollutant concentrations, opacity measurements, charge rates, and other operational data. This information must be maintained for a period of five years (40 CFR 60.38e, as listed at 62 FR 48381).
11. You must submit an annual report to Georgia DNR containing records of annual equipment inspections, any required maintenance, and unscheduled repairs. This annual report must be signed by the facilities manager (40 CFR 60.38e, as listed at 62 FR 48381).

VI. Why Is the Georgia HMIWI State Plan Approvable?

EPA compared the Georgia rules (Georgia Rule for Air Quality Control, Chapter 391–3–1–.02(2)(iii), and sections 2.117.2, 2.117.3, and 2.117.4 of the Georgia DNR Procedures for Testing and Monitoring Sources of Air Pollutants), against our HMIWI EG. EPA finds the Georgia rules to be at least as protective as the EG. The Georgia State Plan was reviewed for approval against the following criteria: 40 CFR 60.23 through 60.26, *Subpart B—Adoption and Submittal of State Plans for Designated Facilities;* and, 40 CFR 60, 60.30e through 60.39e, *Subpart Ce—Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators.* The Georgia State Plan satisfies the requirements for an approvable section 111(d) plan under subparts B and Ce of 40 CFR part 60. For

these reasons, we are approving the Georgia HMIWI State Plan.

VII. Final Action

EPA is approving the aforementioned changes to the SIP because they meet EPA requirements. The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective April 25, 2000 without further notice unless the Agency receives adverse comments by March 27, 2000.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on April 25, 2000 and no further action will be taken on the proposed rule.

VIII. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 25, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Hospital/medical/infectious waste incineration, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: February 10, 2000.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR part 62 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

Subpart L—Georgia

2. Section 62.2600 is amended by adding paragraphs (b)(6) and (c)(5) to read as follows:

§ 62.2600 Identification of plan.

* * * * *

(b) * * *

(6) State of Georgia Plan for Implementation of 40 CFR Part 60, Subpart Ce, for Hospital/Medical/Infectious Waste Incinerators Constructed on or Before June 20, 1996, submitted on September 15, 1998, by the Georgia Department of Natural Resources.

(c) * * *

(5) Existing hospital/medical/infectious waste incinerators.

3. Subpart L is amended by adding a new § 62.2608 and a new undesignated center heading to read as follows:

Air Emissions From Hospital/Medical/Infectious Waste Incinerators

§ 62.2608 Identification of sources.

The plan applies to existing hospital/medical/infectious waste incinerators for which construction, reconstruction, or modification was commenced before

June 20, 1996, as described in 40 CFR Part 60, Subpart Ce.

[FR Doc. 00–4229 Filed 2–24–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–6542–6]

RIN 2060–A173

Protection of Stratospheric Ozone: Allocation of Essential Use Allowances for Calendar Year 2000: Allocations for Metered-Dose Inhalers and the Space Shuttle and Titan Rockets

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period for interim final rule.

SUMMARY: The United States Environmental Protection Agency (EPA) is extending the comment period for the interim final rule published January 6, 2000 (65 FR 716). This interim final rule allocated essential use allowances for ozone depleting substances for calendar year 2000 and was effective on the date of publication. EPA published the allocation as an interim final rule and provided a 30 day comment period because the allocated quantities were lower than those contained in the proposed rule. However, companies who applied for essential use allowances as a part of the International Pharmaceutical Aerosol Consortium (IPAC) were not informed as to the amount of individual allowances they would receive for calendar year 2000 until January 25, 2000, after FDA provided these confidential numbers to EPA. EPA received comment from one of the IPAC companies stating that the original 30 day comment period would not allow sufficient time to formulate comments in response to the allocation of essential use allowances. Therefore, EPA is extending the deadline for submitting written comment on the allocation of essential-use allowances for calendar year 2000 for ozone depleting substances for use in medical devices and for use in the Space Shuttle Rockets and Titan Rockets until March 27, 2000.

DATES: The comment period for this interim final rule is extended until March 27, 2000.

ADDRESSES: Comments on the interim final rulemaking allocating essential use allowances for metered dose inhalers and the space shuttle and Titan Rockets (65 FR 716) should be submitted in duplicate (two copies) to: Air Docket No. A–92–13, U.S. Environmental Protection Agency, 401 M Street, SW, Room M–1500, Washington, DC, 20460. Those wishing to notify EPA of their intent to submit adverse comments on this action should contact Erin Birgfeld, U.S. Environmental Protection Agency, Stratospheric Protection Division, Office of Air and Radiation (6205J), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC, 20460; *birgfeld.erin@epa.gov*; (202) 564–9079 phone and (202) 565–2095 fax.

Materials relevant to this rulemaking are contained in Docket No. A–92–13. The Docket is located in room M–1500, First Floor, Waterside Mall at the address above. The materials may be inspected from 8 a.m. until 4 p.m. Monday through Friday. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Erin Birgfeld, U.S. Environmental Protection Agency, Stratospheric Protection Division, Office of Air and Radiation (6205J), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC, 20460; *birgfeld.erin@epa.gov*; (202) 564–9079 phone and (202) 565–2096 fax.

Dated: February 17, 2000.

Robert Perciasepe,

Assistant Administrator, Office of Air and Radiation.

[FR Doc. 00–4520 Filed 2–24–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300958A; FRL–6489–4]

RIN 2070–AB78

Emamectin Benzoate; Pesticide Tolerance Technical Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical correction.

SUMMARY: EPA issued a final rule in the **Federal Register** of January 12, 2000, establishing tolerances for emamectin benzoate. This document is being issued to correct a tolerance for ''milk'' at 0.002 ppm, which was inadvertently omitted from the table in paragraph (b).

DATES: This document is effective February 25, 2000.

FOR FURTHER INFORMATION CONTACT: By mail: Andrea Beard, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9356; e-mail address: beard.andrea@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

The Agency included in the final rule a list of those who may be potentially affected by this action. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

II. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–300958A. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

III. What Does This Technical Correction Do?

A final rule to establish time-limited tolerances for emamectin benzoate on various commodities was published in the **Federal Register** on January 12,

2000 (65 FR 1796) (FRL–6398–5). This correction is being published to establish a tolerance for ''milk'' at 0.002 ppm, which was inadvertently omitted from the table in § 180.505(b).

IV. Why Is This Technical Correction Issued as a Final Rule?

EPA is publishing this action as a final rule without prior notice and opportunity to comment because the Agency believes that providing notice and an opportunity to comment is unnecessary and would be contrary to the public interest. As explained above, the correction contained in this action will simply correct § 180.505(b) by adding a commodity that was inadvertently omitted. EPA therefore finds that there is ''good cause'' under section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 553) to make this amendment without prior notice and comment. For the same reasons, EPA also finds that there is ''good cause'' under FFDCA section 408(b)(2) to make this minor modification to the establishment of a tolerance without notice and comment.

V. Do Any of the Regulatory Assessment Requirements Apply to This Action?

No. This final rule implements a technical correction to the Code of Federal Regulations (CFR), and does not impose any new requirements.

Under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), the Office of Management and Budget (OMB) has determined that a technical correction is not a ''significant regulatory action'' subject to review by OMB.

Because this action is not economically significant as defined by section 3(f) of Executive Order 12866, this action is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

This action will not result in environmental justice related issues and does not, therefore, require special consideration under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since the Agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the APA or any other statute (see Unit IV.), this action is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. Nor does this action significantly or uniquely affect the communities of tribal governments as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999).

This action does not involve any technical standards that require the Agency's consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

This rule does not contain any information collection requirements that require review and approval by OMB pursuant to the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*).

In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988, entitled *Civil Justice Reform* (61 FR 4729, February 7, 1996).

EPA has complied with Executive Order 12630, entitled *Governmental Actions and Interference with Constitutionally Protected Property Rights* (53 FR 8859, March 15, 1988), by examining the takings implications of this rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive Order.

EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in Unit VIII. of the final rule (65 FR 1796, January 12, 2000).

VI. Will EPA Submit This Final Rule to Congress and the Comptroller General?

Yes. The Congressional Review Act (CRA) (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of February 25, 2000. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 3, 2000.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is corrected as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

2. In § 180.505, by alphabetically adding ''milk'' to the table in paragraph (b) to read as follows:

§ 180.505 Emamectin Benzoate; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* * * *

Commodity	Parts per million	Expiration/ Revocation Date
* * *	* * *	*
Milk	0.002	12/31/01
* * *	* * *	*

* * * * *

[FR Doc. 00–3494 Filed 2–24–00; 8:45 am]

BILLING CODE 6560–50–F

GENERAL SERVICES ADMINISTRATION

41 CFR Chapter 102 and Part 102–2

RIN 3090–AG83

Federal Management Regulation (FMR)

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration is establishing the Federal Management Regulation (FMR) as the successor regulation to the Federal Property Management Regulations (FPMR). The FMR will provide Federal managers with the regulatory materials they need to efficiently manage real and personal property and administrative services. The FMR is written in plain language to provide agencies with updated regulatory material that is easy to read and understand.

DATES: The effective date of the interim rule was July 21, 1999.

FOR FURTHER INFORMATION CONTACT: Rodney P. Lantier, Director, Regulatory Secretariat, 202–208–7312.

SUPPLEMENTARY INFORMATION

A. Background

An interim rule was published in the **Federal Register** on July 21, 1999 (64 FR 39083). Two comments were received and considered in adopting the interim rule as a final rule without change.

B. Executive Order 12866

GSA has determined that this final rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993.

C. Regulatory Flexibility Act

This final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612 because it applies solely to matters concerning agency management and personnel.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this final rule does not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.*

E. Small Business Regulatory Enforcement Fairness Act

This final rule is exempt from Congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Chapter 102

Government property management.

Interim Rule Adopted as Final Without Change

For the reasons set forth in the preamble and under the authority of 40 U.S.C. 486(c), the interim rule amending Title 41 of the Code of Federal Regulations which was published at 64 FR 39083 on July 21, 1999, is adopted as a final rule without change.

Dated: February 14, 2000.

David J. Barram,

Administrator of General Services.

[FR Doc. 00–4435 Filed 2–24–00; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1000

RIN 0970–ACO2

Individual Development Accounts

AGENCY: Office of Community Services, ACF, HHS.

ACTION: Interim final rule with comment.

SUMMARY: This regulation implements a statutory requirement of the Assets for Independence Act establishing the Assets for Independence Demonstration Program, under title IV of the Community Opportunities, Accountability, and Training and Educational Services Act of 1998. The Act provides competitive demonstration grants for projects to establish, support, and evaluate individual development accounts for low income individuals and families. The statute requires the Secretary of Health and Human Services to prescribe regulations that grantees must follow in accounting for amounts grantees deposit in the reserve fund. This rule implements that provision of the legislation. Other factors in the legislation have been, or will be, addressed administratively, through the grant announcement and award process.

DATES: These regulations are effective February 25, 2000. Consideration will be given to written comments received by April 25, 2000.

ADDRESSES: Comments should be submitted in writing to the Office of Community Services, Administration for Children and Families, 370 L'Enfant Promenade, SW, 5th Floor, Washington, DC 20447, Attention: Director of Office of Community Services, Mail Stop: OCS/OD. Comments will be available for public inspection Monday through Friday, 8:30 a.m. to 5 p.m. on the 5th floor of the Department's offices at the above address. Comments may also be submitted by sending electronic mail (e-mail) to RSaul@acf.dhhs.gov, or by telefaxing to 202–401–4687 or 202 (401)-5718. This is not a toll-free number. Comments sent electronically must be in ASCII format.

FOR FURTHER INFORMATION CONTACT: Sheldon Shalit, Office of Community Services, (202) 401–4807, or Richard Saul, Office of Community Services, (202) 401–9341. Hearing impaired individuals may call the Federal Dual Party Relay Service at 800–877–8339 between 8 a.m. and 7 p.m. eastern time.

SUPPLEMENTARY INFORMATION

I. Statutory and Regulatory Authority

These rules implement section 407(b)(2) of the Community Opportunities, Accountability, and Training and Educational Services Act of 1998 (Pub. L. 105–285). Under this provision, the Secretary of Health and Human Services is to prescribe by regulation the rules grantees must follow in accounting for monies in reserve funds, established under the Act, which are used for depositing grant funds, the non-Federal matching funds required for establishing individual development accounts, and the proceeds from any investment of such funds.

II. Background

The Assets for Independence Act, or title IV of Pub. L. 105–285, provides for the establishment of Individual Development Account (IDA) demonstration projects to determine how effective IDAs and ''asset-building'' strategies are in helping low-income people save, acquire productive assets, and achieve economic self-sufficiency. The Act authorizes the Department of Health and Human Services to conduct a five-year Individual Development Account demonstration, through which grants are made to non-profit organizations on a competitive basis.

The statute provides specific and detailed requirements for establishing

such programs and authorizes grants for projects to be awarded within 10 months of enactment of the Act (August 27, 1999). For these reasons, coupled with the Department's commitment to reduce regulatory burden, we have decided to limit regulating to the one area where the statute indicates regulations are required. Specifically, section 407(b)(2) of Pub. L. 105–285 requires grantees to maintain a reserve fund in accordance with accounting regulations prescribed by the Secretary. Responding to this legislative provision, these rules stipulate which Departmental uniform administrative requirements must be met in maintaining IDA reserve funds.

The statute requires that amounts in the reserve funds be used as matching contributions to individual development accounts for project participants; for expenses related to collecting and reporting project data and information required for the evaluation; for administration of the project including skill training necessary to achieve economic self-sufficiency; and for other project related expenses. Federal funds can only be drawn down after the match funds have been deposited.

With respect to provisions of the Act other than accounting for the amounts in the reserve fund, on January 27, 1999, the Department issued a Program Announcement in the **Federal Register**, ''Program Announcement No. OCS–99–04'' (64 FR 4258), announcing the availability of funds and requesting competitive applications. On March 29, 1999, the Department published guidance, ''Clarification of Program Announcement No. OCS 99–04'' (64 FR 14923), in the **Federal Register** to assist interested applicants in understanding the law and the requirements for eligibility. Also, on July 2, 1999, a Second Round of Applications was published, ''Program Announcement No. OCS–99–04'' (64 FR 36184). Further information will be made available to the grantees as part of Terms and Conditions at the time of the grant award.

III. Description of Regulatory Provisions

We are adding a new part 1000 in title 45 of the Code of Federal Regulations.

New Part 1000 of Chapter X, title 45 of the CFR—Individual Development Account—Reserve Funds Established Pursuant to Grants for Assets for Independence

We are establishing requirements under new 45 CFR part 1000 regarding reserve funds established pursuant to the Assets for Independence Program. We are confirming that Departmental administrative requirements found in part 74 are applicable to reserve funds established by grantees that are not-for-profit organizations as defined by section 501(c)(3) of the Internal Revenue Code of 1986. We are also confirming that the Departmental administrative requirements found in Part 92 are applicable to reserve funds established by State or local government agencies or tribal governments.

New § 1000.1 provides that this part applies to the Community Services Assets for Independence Program.

We are adding a definition of Individual Development Account at § 1000.2(a) to read:

Individual Development Account means a trust or custodial account created or organized in the United States exclusively for the purpose of paying the qualified expenses of an eligible individual, as defined in section 404(2) of Pub. L. 105–285, or enabling the eligible individual to make an emergency withdrawal, as prescribed in section 404(3) of Pub. L. 105–285. The written governing instrument creating the trust or custodial account must meet the requirements of section 404(5) of Pub. L. 105–285, (section 404(5)(A)) and of the Project Eligibility Requirements set forth in the Program Announcement No. OCS–99–04 and any future announcements that may be issued.

We are adding a definition of qualified entity at § 1000.2(b) to read:

Qualified Entity means one or more not-for-profit organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; or a State or local government agency, or a tribal government, submitting an application under section 405 of Pub. L. 105–285 jointly with a 501(c)(3) organization that is exempt from taxation under 501(a) of the Internal Revenue Code of 1986.

We are adding a definition of reserve fund at § 1000.2(c) to read

(c) *Reserve Fund* means a fund, established by a qualified entity, that shall include all funds provided to the qualified entity from any public or private source in connection with the demonstration project and the proceeds from any investment made with such funds. The fund shall be maintained in accordance with Section 407 of Pub. L. 105–285. At least 90.5% of the funds must be used as matching contributions for Individual Development Accounts.

Under § 1000.3(a), we are confirming that Reserve Funds under the Assets for Independence Program established by qualified entities, other than State or local government agencies or tribal governments, are subject to the Department of Health and Human Services' uniform administrative requirements under 45 CFR part 74.

Under § 1000.3(b), we are confirming which requirements are applicable to Reserve Funds by a qualified entity that is a State or local government agency or tribal government. While these entities are not required to establish reserve funds, reserve funds that are established by these entities are subject to the Department of Health and Human Services' uniform administrative requirements under 45 CFR part 92.

IV. Justification for Dispensing with Notice of Proposed Rulemaking

These regulations are being published in final form with a comment period. The Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), provides that, if the Department for good cause finds that a notice of proposed rulemaking is unnecessary, impracticable or contrary to public interest, it may dispense with the notice if it incorporates a brief statement in the final regulations of the reasons for doing so.

The Department finds that there is good cause to dispense with proposed rulemaking procedures for the following reasons. First, the new part 1000 of the CFR does not establish original accounting requirements, but provides that existing regulations found in 45 CFR parts 74 and 92 apply to Reserve Funds established under the Assets for Independence Act. Therefore, this Interim Final Rule is a matter in which public comment would not significantly aid. Second, the Assets for Independence Act, as part of the Human Services Reauthorization Act of 1998, established stringent timelines which mandate that grant awards are to be determined by August 27, 1999. To ensure that grantees will have guiding principles by which they may operate the program, it is necessary to provide adequate administrative regulations in a timely manner. Therefore, we are eliminating a proposed rule for the sake of expediency.

For these reasons, OCS believes that there is sufficient cause to dispense with proposed rulemaking. Nonetheless, we wish to have the advantage of the information and opinions we may receive through public comments. We will consider any comments received and revise the regulations if necessary. We will issue a final document confirming that this interim final rule is final and will add any revisions, as needed, from the comments.

V. Justification for Dispensing with Publication 30 Days Prior to the Effective Date

The Assets for Independence Act, as part of the Human Services Reauthorization Act of 1998, established stringent timelines which mandate that grant awards are to be determined by August 27, 1999. To ensure that grantees will have guiding principles by which they may operate the program, it is necessary to provide adequate administrative regulations in a timely manner. Therefore, we are eliminating the 30-day delay period for the effective date of publication for this rule.

VI. Regulatory Flexibility Analysis

The Secretary certifies, under 5 U.S.C. 605(b), the Regulatory Flexibility Act (Pub. L. 96–354), that these proposed regulations will not result in a significant impact on a substantial number of small entities. The primary impact is on a limited number of grantees and the impact is not significant.

VII. Executive Order 12866

Executive Order 12866 requires that regulations be reviewed to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this proposal is consistent with these priorities and principles. The rule implements the statutory provisions by specifying applicable rules grantees are subject to in meeting accounting requirements for reserve funds established for purposes of carrying out demonstration projects under the Assets for Independence Act.

VIII. Unfunded Mandates Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act) requires that a covered agency prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by State, local and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year.

If a covered agency must prepare a budgetary impact statement, section 205 further requires that it select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with the statutory requirements. In addition, section 203 requires a plan for informing and advising any small government that may be significantly or uniquely impacted by the proposed rule.

We have determined that this rule will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of more than $100 million in any one year. Accordingly, we have not prepared a budgetary impact statement, specifically addressed the regulatory alternatives considered, or prepared a plan for informing and advising any significantly or uniquely impacted small government.

IX. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Pub. L. 104–13, all Departments are required to submit to the Office of Management and Budget (OMB) for review and approval any reporting or record keeping requirements inherent in a rule. This rule contains information collection requirements in § 1000.3 (requiring the establishment of a reserve fund) which have been submitted to OMB for review and approval.

The respondents to the information collection requirements in the rule are IDA grantees, which may be not-for-profit organizations, State or local agencies or tribal governments.

The Department is requiring the collection of information in conjunction with section 407 of Pub. L. 105–285 which requires a qualified entity, other than a State or local government agency or a tribal government, to establish a Reserve Fund for depositing all funds provided to the qualified entity from any public or private source in connection with the demonstration project and the proceeds from any investments.

We estimate a burden of 40 hours for each new grantee. On average we anticipate 76 new grantees each year resulting in a total annual burden for this rule of 3,040 hours.

The Administration for Children and Families will consider comments by the public on this proposed collection of information in: evaluating whether the proposed collection is necessary for the proper performance of the functions of ACF, including whether the information will have practical utility; evaluating the accuracy of ACF's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used; enhancing the quality, usefulness, and clarity of the information to be collected; and minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technology.

OMB is required to make a decision concerning the collection of information contained in this interim final rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB received it within 30 days of publication. Written comments to OMB for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW, Washington, DC 20503, Attn: Wendy Taylor.

X. Congressional Review

This rule is not a major rule as defined in 5 U.S.C., Chapter 8.

XI. Assessment of Federal Regulations and Policies on Families

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires Federal agencies to determine whether a policy or regulation may affect family well being. If the agency's conclusion is affirmative, then the agency must prepare an impact assessment addressing seven criteria specified in the law. These regulations will not have an impact on family well being as defined in the legislation.

XII. Executive Order 13132

Executive Order 13132 on Federalism applies to policies that have federalism implications, defined as ''regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government.'' This rule does not have federalism implications as defined in the Executive Order.

List of Subjects in 45 CFR part 1000

Grant programs–Social programs.

(Catalog of Federal Domestic Assistance Programs No. 93.602, Individual Development Account/Assets for Independence)

Dated: October 21, 1999.

Olivia A. Golden,

Assistant Secretary for Children and Families.

Approved: November 1, 1999.

Donna E. Shalala,

Secretary, Department of Health and Human Services.

For the reasons set forth in the preamble, we are adding to Chapter X a new part 1000 of title 45 of the Code of Federal Regulations as follows:

1. A new Part 1000 is added to Chapter X of title 45 of the Code of Federal Regulations to read as follows:

Part 1000—Individual Development Account Reserve Funds Established Pursuant to Grants for Assets for Independence

Sec.
1000.1 Scope.
1000.2 Definitions.
1000.3 Requirements.

Authority: § 407(b)(2), Pub. L. 105–285, 112 Stat. 2766.

§ 1000.1 Scope.

This part applies to the Office of Community Services' Assets for Independence Program.

§ 1000.2 Definitions.

Individual Development Account means a trust or custodial account created or organized in the United States exclusively for the purpose of paying the qualified expenses of an eligible individual, as defined in section 404(2) of Pub. L. 105–285, or enabling the eligible individual to make an emergency withdrawal as defined in section 404(3) of Pub. L.105–385. The written governing instrument creating the trust or custodial account must meet the requirements of Section 404(5) of Pub. L. 105–285, and of the Project Eligibility Requirements set forth in Program Announcements.

Qualified Entity means one or more not-for-profit organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; or a State or local government agency, or a tribal government, submitting an application under section 405 of Pub. L. 105–285 jointly with a 501(c)(3) organization that is also exempt from taxation under 501(a) of the Internal Revenue Code of 1986.

Reserve Fund means a fund, established by a qualified entity, that shall include all funds provided to the qualified entity from any public or private source in connection with the demonstration project and the proceeds from any investment made with such funds. The fund shall be maintained in accordance with section 407 of Pub. L. 1052–285. At least 90.5% of the funds must be used as matching contributions for Individual Development Accounts.

§ 1000.3 Requirements.

(a) A qualified entity, other than a State or local government agency or tribal government, shall establish a Reserve Fund for use in the Assets for Independence program. Each reserve fund established by a qualified entity, other than a State or local government agency or tribal government, is subject to the Department of Health and Human Services' uniform administrative requirements under 45 CFR part 74.

(b) Any reserve fund established by a qualified entity that is a State or local government agency or tribal government, is subject to the Department of Health and Human Services' uniform administrative requirements under 45 CFR part 92.

[FR Doc. 00–4390 Filed 2–24–00; 8:45 am]

BILLING CODE 4184–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–251]

Radio Broadcasting Services; Various Locations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, on its own motion, editorially amends the Table of FM Allotments to specify the actual classes of channels allotted to various communities. The changes in channel classifications have been authorized in response to applications filed by licensees and permittees operating on these channels. This action is taken pursuant to *Revision of Section 73.3573(a)(1) of the Commission's Rules Concerning the Lower Classification of an FM Allotment,* 4 FCC Rcd 2413 (1989), and the *Amendment of the Commission's Rules to permit FM Channel and Class Modifications [Upgrades] by Applications,* 8 FCC Rcd 4735 (1993).

EFFECTIVE DATE: February 25, 2000.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, adopted February 2, 2000, and released February 11, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

47 CFR PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Alabama, is amended by removing Channel 276A and adding Channel 276C3 at Moulton.

3. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by removing Channel 263C1 and adding Channel 263C at Durango, removing Channel 297A and adding Channel 297C2 at Hayden, and by removing Channel 285C3 and adding Channel 285C1 at Telluride.

4. Section 73.202(b), the Table of FM Allotments under Florida, is amended by removing Channel 249C1 and adding Channel 249A at Marathon.

5. Section 73.202(b), the Table of FM Allotments under Illinois, is amended by removing Channel 238A and adding Channel 238C3 at Bethalto.

6. Section 73.202(b), the Table of FM Allotments under Indiana, is amended by removing Channel 299B and adding Channel 299B1 at Corydon.

7. Section 73.202(b), the Table of FM Allotments under Kansas, is amended by removing Channel 251A and adding Channel 251C3 at Dearing.

8. Section 73.202(b), the Table of FM Allotments under Louisiana, is amended by removing Channel 243C3 and adding Channel 243C2 at Breaux Bridge and by removing Channel 249C3 and adding Channel 249C1 at Dubach.

9. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by removing Channel 264C1 and adding Channel 264A at Crystal Falls and by removing Channel 266C2 and adding Channel 266C1 at Ontonagon.

10. Section 73.202(b), the Table of FM Allotments under Minnesota, is amended by removing Channel 296C3 and adding Channel 296A at Moose Lake and by removing Channel 288A and adding Channel 288C3 at St. Peter.

11. Section 73.202(b), the Table of FM Allotments under Missouri, is amended by removing Channel 284A and adding Channel 284C3 at Chaffee, by removing Channel 272A and adding Channel 272C2 at Dexter, and by removing Channel 222A and adding Channel 222C2 at Thayer.

12. Section 73.202(b), the Table of FM Allotments under Montana, is amended by removing Channel 283A and adding Channel 283C1 at Big Sky.

13. Section 73.202(b), the Table of FM Allotments under Nebraska, is amended by removing Channel 276A and adding Channel 275C at Imperial.

14. Section 73.202(b), the Table of FM Allotments under New Mexico, is amended by removing Channel 291C2 and adding Channel 291C1 at Gallup.

15. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 268C1 and adding Channel 267C1 at Brownwood, by removing Channel 228A and adding Channel 228C2 at Junction, by removing Channel 240A and adding Channel 241C3 at Perryton, by removing Channel 274A and adding Channel 274C3 at Winona, and by removing Channel 241A and adding Channel 241C2 at Winters.

16. Section 73.202(b), the Table of FM Allotments under Utah, is amended by removing Channel 223A and adding Channel 223C3 at Coalville.

17. Section 73.202(b), the Table of FM Allotments under Vermont, is amended by removing Channel 229A and adding Channel 229C3 at Addison.[1]

18. Section 73.202(b), the Table of FM Allotments under Virginia, is amended by removing Channel 299A and adding Channel 299C3 at Cedar Bluff.

19. Section 73.202(b), the Table of FM Allotments under Washington, is amended by removing Channel 245C3 and adding Channel 245C2 at Spokane.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch,

Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–4386 Filed 2–24–00; 8:45 am]

BILLING CODE 6712–01–P

[1] Pursuant to MM Docket No. 98–52, effective December 14, 1998, Channel 229C3 was substituted for Channel 229A at Hague, New York, and reallotted to Addison, Vermont. *See* 63 FR 62957, November 10, 1998. In a *Report and Order* released on July 16, 1999, Channel 229A was substituted for Channel 229C3 at Addison, Vermont. *See* 64 FR 39941, July 23, 1999.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1806, 1825, 1852 and 1853

Foreign Acquisition

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This final rule conforms the NASA FAR Supplement (NFS) to Federal Acquisition regulations on Foreign Acquisition, finalized in Federal Acquisition Circular (FAC) 97–15. It also refines internal agency coordination procedures.

EFFECTIVE DATE: February 25, 2000.

FOR FURTHER INFORMATION CONTACT: Patrick Flynn, NASA, Office of Procurement, Contract Management Division (Code HK), (202) 358–0460, e-mail: patrick.flynn@hq.nasa.gov.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule conforms the NASA FAR Supplement to Item No. II of FAC 97–15, which became final on December 27, 1999, and enters into effect on February 25, 2000. Internal coordination procedures have been clarified, but no substantive changes have been made to NASA policy.

B. Regulatory Flexibility Act

NASA certifies that this final rule will not have a significant economic impact on a substantial number of small business entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because it does not impose any new requirements.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the NFS do not impose any recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 1806, 1825, 1852, and 1853

Government procurement.

Tom Luedtke,

Associate Administrator for Procurement.

Accordingly, 48 CFR Parts 1806, 1825, 1852, and 1853 are amended as follows:

1. The authority citation for 48 CFR Parts 1806, 1825, 1852, and 1852 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1806—COMPETITIVE REQUIREMENTS

2. In section 1806.303–1, revise paragraph (d) to read as follows:

1806.303–1 Requirements.

* * * * *

(d) The contracting officer shall send a copy of each approved justification or D&F that cites the authority of FAR 6.302–3(a)(2)(i) or FAR 6.302–7 to NASA Headquarters, Office of Procurement (Code HK), unless one of the exceptions at FAR 25.403 applies to the acquisition. The transmittal shall indicate that the justification is being furnished under FAR 6.303–1(d).

PART 1825—FOREIGN ACQUISITION

3. Revise Part 1825 to read as follows:

PART 1825 FOREIGN ACQUISITION

Sec.

''Canadian end product'', for an item with an estimated value of $25,000 or less, means an unmanufactured end product mined or produced in Canada or an end product manufactured in Canada, if the cost of its components mined, produced, or manufactured in Canada or the United States exceeds 50 percent of the cost of all its components. The cost of components includes transportation costs to the place of incorporation into the end product. For an end product with an estimated value in excess of $25,000, the definition at FAR 25.003 applies.

Subpart 1825.1— Buy American Act—Supplies

1825.103 Exceptions.

(a)(i) The procurement officer must send proposed public interest determinations to the Associate Administrator for Procurement (Code HS) for approval.

(ii) The Associate Administrator for Procurement has determined that it is inconsistent with the public interest to apply restrictions of the Buy American Act to Canadian end products with estimated values of $25,000 or less as defined in 1825.003–70. Accordingly, contracting officers must evaluate all offers for such Canadian end products on a parity with offers for domestic end products, except that applicable duty (whether or not a duty free entry certificate may be issued) must be included in evaluating offers for Canadian end products.

Subpart 1825.4—Trade Agreements

1825.400 Scope of subpart.

(b) The Buy American Act and the Balance of Payments Program apply to all acquisitions of Japanese end products or services in excess of $2,500.

Subpart 1825.9—Customs and Duties

1825.901 Policy.

NASA has statutory authority to exempt certain articles from import duties, including articles that will be launched into space, spare parts for such articles, ground support equipment, and unique equipment used in connection with an international program or launch service agreement. This authority is fully described in 14 CFR part 1217.

1825.903 Exempted supplies.

(a) Through delegation from the Associate Administrator for Procurement, Procurement Officers are authorized to certify duty free entry for articles imported into the United States, if those articles are procured by NASA or by other U.S. Government agencies, or by U.S. Government contractors or subcontractors when title to the articles is or will be vested in the U.S. Government in accordance with the terms of the contract or subcontract. Procurement officers shall complete Customs Form 7501, Entry Summary (available from your nearest Service Port *(http://www.customs.ustreas.gov/location/ports/index.htm)* or from (https://extranet.hq.nasa.gov/nef/user/form__search.cfm)) and the certification set forth in 14 CFR 1217.104(a) or 1217.104(c)*(http://www.access.gpo.gov/nara/cfr/cfr-retrieve.html#page1).* All duty-free certificates must be coordinated with the center Chief Counsel. Procurement officers must maintain a record of each certification and make this record available for periodic review by NASA Headquarters and the U.S. Customs Service.

Subpart 1825.10—Additional Foreign Acquisition Regulations

1825.1001 Waiver of right to examination of records.

(b) The Administrator is the approval authority for waivers. The contracting officer must submit the waiver request, consisting of the determination and findings prescribed in FAR 25.1001(b) and any relevant supporting information, to the Headquarters Office of Procurement (Code HS).

1825.1002 Use of foreign currency.

(a) The NASA Headquarters Comptroller (Code B) is the designated official for making the determination of the feasibility of using excess or near-excess currency.

Subpart 1825.11—Solicitation Provisions and Contract Clauses

1825.1101 Acquisition of supplies.

(e) The contracting officer must add paragraph (k) as set forth in 1852.225–8, Duty-Free Entry of Space Articles, in solicitations and contracts when the supplies that will be accorded duty-free entry are identifiable before award. Insert the supplies determined in accordance with FAR subpart 25.9 and 1825.903.

1825.1103 Other provisions and clauses.

1825.1103–70 Export control.

(a) Background. (1) NASA contractors and subcontractors are subject to U.S. export control laws and regulations, including the International Traffic in Arms Regulations (ITAR), 22 CFR parts 120 through 130, and the Export Administration Regulations (EAR), 15 CFR parts 730 through 799. The contractor is responsible for obtaining the appropriate licenses or other approvals from the Department of State or the Department of Commerce when it exports hardware, technical data, or software, or provides technical assistance to a foreign destination or ''foreign person'', as defined in 22 CFR 120.16, and there are no applicable or available exemptions/exceptions to the ITAR/EAR, respectively. A person who is lawfully admitted for permanent residence in the United States is not a ''foreign person''. (See 22 CFR 120.16 and 15 CFR 734.2(b)(2)(ii).)

(2) The exemption at 22 CFR 125.4(b)(3) of the ITAR provides that a contractor may export technical data without a license if the contract between the agency and the exporter provides for the export of the data. The clause at 1852.225–70, Alternate I, provides contractual authority for the exemption, but the exemption is available only after the contracting officer, or designated representative, provides written authorization or direction enabling its use. It is NASA policy that the exemption at 22 CFR 125.4(b)(3) may only be used when technical data (including software) is exchanged with a NASA foreign partner pursuant to the terms of an international agreement in furtherance of an international collaborative effort. The contracting officer must obtain the approval of the Center Export Administrator before granting the contractor the authority to use this exemption.

(b) Contract clause. Insert the clause at 1852.225–70, Export Licenses, in all solicitations and contracts, except in contracts with foreign entities. Insert the clause with its Alternate I when the NASA project office indicates that technical data (including software) is to be exchanged by the contractor with a NASA foreign partner pursuant to an international agreement.

Subpart 1825.70—Foreign Contract and International Agreement Clearances

1825.7000 Scope of subpart.

This subpart prescribes policy and procedures for pre-award clearance of foreign contracts, and for coordination of international agreements that contemplate award of contracts using appropriated funds.

1825.7001 Definition.

Foreign contract acquisition, as used in this subpart, means the acquisition by negotiation of supplies or services, including construction and research and development when the work is to be performed outside the United States, its possessions, and Puerto Rico by a foreign government or instrumentality thereof or by a foreign private contractor. The term does not include—

(a) Negotiation of contracts with domestic concerns involving work to be performed outside the United States, its possessions, and Puerto Rico; or

(b) Contracts with the Canadian Commercial Corporation.

1825.7002 Foreign contracts.

(a) *Policy.* Following the procedure in paragraph (b) of this section, the Acquisition Team must coordinate with

Headquarters before initiating any foreign contract acquisition if the acquisition is valued above $100,000 or involves export control issues. An acquisition involves export control issues if it entails—

(1) Importing or exporting goods or technical data from or to a country listed in 22 CFR 126.1(a) or 126.1(d) (Subchapter M, the International Traffic in Arms Regulations) (http://www.pmdtc.org/itar2.htm);

(2) Importing or exporting Defense Articles or Defense Services on the United States Munitions List at 22 CFR part 121 which would require NASA to obtain a license from the State Department's Office of Defense Trade Controls;

(3) Exporting goods or technical data on the Commerce Control List at 15 CFR part 774 and that require NASA to obtain either a Special or an Individual Validated License;

(4) Importing and/or exporting goods or technical data from or to an entity listed in 15 CFR part 740, Supplement 1, Country Group D; or

(5) Exporting and/or importing of goods, technology, or services to or from any entity subject to transaction control, embargo, or sanctions pursuant to 31 CFR Chapter V.

(b) *Procedure.*

(1) The Headquarters or field installation technical office requiring a foreign contract acquisition meeting any of the criteria listed in paragraph (a) of this section must submit the following information to the Headquarters Office of External Relations (Code I) through the contracting officer and the Headquarters Office of Procurement (Code HS)—

(i) The name of the foreign entity, the country or countries involved, and the purpose of the contract;

(ii) The Space Act agreement(s) involved, if any;

(iii) A description of the goods or technical data requiring prior written approval or the issuance of the license for their import or export from the Departments of Commerce, State, or Treasury; and

(iv) The reason why the acquisition is being placed with a foreign entity.

(2) All coordination required between NASA and the Departments of Commerce, State, and Treasury regarding foreign contract acquisitions shall be accomplished through the Headquarters Office of External Relations (Code I).

(3) The lead-time for obtaining an export license is 60 to 90 days. Requests for Headquarters clearance should be initiated as early as possible.

1825.7003 International agreements.

Office of Procurement (Code HS) concurrence is required for all Memoranda of Understanding with foreign entities and for other types of international agreements which contemplate the procurement of goods or services using U.S. appropriated funds. No Code H concurrence is required for agreements which are done solely on a cooperative basis.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Add section 1852.225–8 to read as follows:

1852.225–8 Duty-free entry of space articles.

As prescribed in 1825.1101(e), add the following paragraph (k) to the basic clause at FAR 52.225–8:

(k) The following supplies will be given duty-free entry:
[Insert the supplies that are to be accorded duty-free entry.]
(End of addition)

5. Amend the introductory text of section 1852.225–70 and Alternate I to section 1852.225–70 by deleting ''1825.970–2'' and adding ''1825.1103–70(b)'' in its place.

1852.225–71 and 1852.225–7 [Removed]

6. Remove sections 1852.225–71 and 1852.225–73.

PART 1853—FORMS

7. Add Section 1853.225 to read as follows:

1853.225 Foreign Acquisition (Customs Form 7501).

Customs Form 7501, Entry Summary. Prescribed in 1825.903 and 14 CFR 1217.104.

[FR Doc. 00–4387 Filed 2–24–00; 8:45 am]
BILLING CODE 7510–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF29

Endangered and Threatened Wildlife and Plants; Endangered Status for the Armored Snail and Slender Campeloma

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service, determine the armored snail (*Pyrgulopsis* (=*Marstonia*) *pachyta*) and slender campeloma (*Campeloma decampi*) to be endangered species under the Endangered Species Act of 1973, as amended (Act). The armored snail occurs only in Piney and Limestone Creeks, Limestone County, Alabama. The range of the slender campeloma has been reduced (Aquatic Resources Center (ARC) 1997) by at least three-quarters from its historical distribution and the species now occurs only in Round Island, Piney, and Limestone Creeks, Limestone County, Alabama. These species are now in a particularly precarious position, being restricted to a few isolated sites along two or three short river reaches. Siltation and other pollutants from poor land-use practices and waste discharges are contributing to the general deterioration of water quality, likely affecting these species. This action implements the protection of the Act for these two snails.

EFFECTIVE DATE: March 27, 2000.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Asheville Field Office, U.S. Fish and Wildlife Service, 160 Zillicoa Street, Asheville, North Carolina 28801.

FOR FURTHER INFORMATION CONTACT: Mr. J. Allen Ratzlaff (see **ADDRESSES** section), telephone 828/258–3939, Ext. 229; or Mr. Larry Goldman, Field Supervisor, P.O. Box 1190, 1208–B Main Street, Daphne, Alabama 36526, telephone 334/441–5181.

SUPPLEMENTARY INFORMATION:

Background

Thompson (1977) described the armored snail (*Marstonia pachyta*), and Hershler and Thompson (1987) later reassigned it to the genus *Pyrgulopsis.* The armored snail is a small, presumably annual, species (usually less than 4 millimeters (mm) (0.16 inch (in)) in length) (Thompson 1984). It is distinguished from other closely related species by the characteristics of both its verge (male reproductive organ) and shell. The armored snail has a small raised gland on the ventral surface of the verge (a trait common only with the beaverpond snail (*P. castor*) of this genus) and two small glands along the left margin of the apical (tip) lobe. The apical lobe is smaller than in most species of *Pyrgulopsis* (Thompson 1977). Garner (1993) noted some variation in verge characteristics (more developed apical lobes), but attributed the differences to temporal changes in verge morphology throughout the

annual life cycle. The shell is easily identified by its ovate-conical shape, its pronounced thickness, and its complete peristome (edge of the opening). Other *Pyrgulopsis* species with ovate-conical shells have much thinner, almost transparent shells, and the peristome is seldom complete across the parietal margin (area along the opening abutting the main body of the shell) of the aperture (opening) (Thompson 1977).

The armored snail occurs only in Piney and Limestone Creeks, Limestone County, Alabama (Garner 1993, Hershler 1994, ARC 1997), and has never been noted outside this area. Piney Creek was a tributary to Limestone Creek prior to the construction of Wheeler Lake on the Tennessee River. Thus, the two populations of the armored snail are likely remnants of a once larger population. No entire population of the armored snail is known to have been lost. Armored snails are generally found among submerged tree roots and bryophytes (nonflowering plants comprising mosses and liverworts) along stream margins in areas of slow to moderate flow. Occasionally they are found in the submerged detritus (organic matter and rock fragments) along pool edges.

The armored snail is in a particularly precarious position because it is restricted to a few isolated sites along two short river reaches. Inhabited sites appear to be rather small, covering only a few square meters.

The slender campeloma belongs to the ovoviviparous family Viviparidae. All species in this family give birth to young crawling snails rather than laying eggs that hatch in an external environment. The sexes are separate in the Viviparidae, with males being distinguishable by their modified right tentacle that serves as a copulatory organ. This modified tentacle in males is shorter and thicker than the left tentacle or either of the bilaterally symmetrical tentacles of the females (Burch and Vail 1982).

Burch and Vail (1982) describe the slender campeloma (*Campeloma decampi*) (''Currier'' Binney 1865) as follows: Shell medium to large but generally less than 35 mm (1.40 in) in length; shell without spiral nodules; outer margin of shell aperture not concave and its oblique angle to the shell axis not exaggerated; columellar margin of operculum (plate that closes the shell when the snail is retracted) not reflected inward; operculum entirely concentric, including its nucleus; whorls without spiral angles, ridges, or sulci (grooves); shells without spiral color bands; length of aperture noticeably greater than width; lateral and marginal teeth simple with very fine, difficult-to-distinguish cusps (points); shell narrow, relatively thin, generally with prominent raised spiral lines.

The slender campeloma is easily distinguished from the sympatric (two or more closely related species occupying identical or overlapping territories) *Campeloma decisum* (a widespread and common species in northern Alabama) by the presence of fine sculpture in the form of faint striations and a relatively higher spire on the shell of *C. decampi.* Many *C. decampi* specimens have strongly developed ridges, referred to as axial growth ridges by Clench and Turner (1955). All whorls in juveniles and early whorls in adults are carinate (keel-shaped). The shell of *C. decisum* is smooth, without carination.

Campeloma decampi is typically found burrowing in soft sediment (sand and/or mud) or detritus. It does not appear abundant at any site, and the spotty distribution appears consistent with other *Campeloma* species (Bovbjerg 1952; Medcof 1940; van der Schalie 1965). Several size classes were found in 1996, ranging from 5 to 31 mm (0.2 to 1.24 in) in shell height, indicating reproducing populations (ARC 1997). Biologists have not studied the life history of *C. decampi.* Based on other studies of species in the genus *Campeloma,* a genus exclusive to North America, we can infer a few generalities. Van Cleave and Altringer (1937), in their study of *C. rufum* in Illinois, found gravid females year-round, peaking in May, and with the most barren females in June. Parturition (giving birth) was also most active in May but extended until September first. Chamberlain (1958) found similar results with *C. decisum* in North Carolina (parturition extending from mid-March until the end of June), as did Medcof (1940) in his study of *C. decisum* in Ontario (parturition extending from March to September). Van Cleave and Altringer (1937) and van der Schalie (1965), in their work with *C. ponderosum coarctatum,* both found females carrying young in the uterus over winter. Given the wide range of sizes found by ARC (1997), the timing of parturition and the ability of females to overwinter young in the uterus are likely similar for *C. decampi.* However, it should be noted that *C. rufum* and *C. decisum* are parthenogenic (production of young by females without fertilization by males), as several of the northern *Campeloma* species appear to be. The food habits of the slender campeloma are not known, but they likely feed on detritus.

Burch (1989) described the range for *Campeloma decampi* as Jackson, Limestone, and Madison Counties, Alabama. These counties all lie along the north side of the Tennessee River. However, the type locality of *C. decampi* is Decatur, Alabama, in Morgan County, across the river from Limestone County (Clench 1962).

Clench and Turner (1955) identified museum specimens of several *Campeloma decampi* from several localities in northern Alabama. These sites were located primarily on stream impoundments and included Swan and Bass Lakes, Limestone County, Brim (=Braham) and Byrd Lakes, Madison County, and an unspecified locality in Jackson County. Surveys conducted in 1996 (ARC 1997) found no Swan Lake in North Alabama. A lake by that name was apparently located in Limestone County, across the river from Decatur, but was inundated by Wheeler Reservoir. This was likely the ''Decatur'' locality (type) mentioned in Clench (1962). Brim (=Braham) Lake was surveyed, but no *C. decampi* were found, though another viviparid (*Viviparus georgianus*) was abundant at the site. Byrd Spring, on Redstone Arsenal, was not accessible.

Based on the 1996 surveys (ARC 1997), the range of *Campeloma decampi* has been reduced by at least three-quarters from its historical distribution, and existing populations are now isolated by Wheeler Reservoir. The species is now in a particularly precarious position, being restricted to a few isolated sites along three short stream reaches—Limestone, Piney, and Round Island Creeks.

Previous Federal Action

In notices of review published in the **Federal Register** on January 6, 1989 (54 FR 554), November 21, 1991 (56 FR 58804), and November 15, 1994 (59 FR 58982), we identified the armored snail as a category 2 candidate species. We identified the slender campeloma as a category 2 species in the notice of review published in the **Federal Register** on November 15, 1994 (59 FR 58982). At that time a category 2 species was one that was being considered for possible addition to the Federal List of Endangered and Threatened Wildlife and Plants, but for which conclusive data on biological vulnerability and threats were not available to support a proposed rule. We discontinued designation of category 2 status in our February 28, 1996, notice of review (61 FR 7956). We approved the two snails in this final rule as candidate species on August 29, 1997. A candidate species is defined as a species for which we have

on file sufficient information on biological vulnerability and threats to support the issuance of a proposed rule.

On October 20, 1993, we notified potentially affected Federal and State agencies, local governments, and interested individuals within the species' present range that a status review was being conducted for the armored snail. We did not receive any objections to the potential listing of the armored snail. We did not send notification letters regarding the slender campeloma because the species' distribution is so similar to that of the armored snail.

On October 28, 1998, we published a proposed rule (63 FR 57642) to list *Campeloma decampi* and *Pyrgulopsis pachyta* as endangered.

The processing of this final rule conforms with our Listing Priority Guidance published in the **Federal Register** on October 22, 1999 (64 FR 57114). The guidance clarifies the order in which we will process rulemakings. Highest priority is processing emergency listing rules for any species determined to face a significant and imminent risk to its well-being (Priority 1). Second priority (Priority 2) is processing final determinations on proposed additions to the lists of endangered and threatened wildlife and plants. Third priority is processing new proposals to add species to the lists. The processing of administrative petition findings (petitions filed under section 4 of the Act) is the fourth priority. The processing of critical habitat determinations (prudency and determinability decisions) and proposed or final designations of critical habitat will no longer be subject to prioritization under the Listing Priority Guidance. The processing of this final rule is a Priority 2. We have updated this rule to reflect any changes in information concerning distribution, status and threats since the publication of the proposed rule.

Summary of Comments and Recommendations

In the October 28, 1998, proposed rule (63 FR 57642) and associated notifications, we requested that all interested parties submit information that might assist us in determining whether these taxa warranted listing. We placed a legal notice in the *Decatur Daily* announcing the proposal and inviting public comment. The comment period closed on December 28, 1998.

During the comment period, we received one letter of support, three letters informing us of a proposed rock quarry on a tributary to Limestone Creek in Limestone County, Alabama, and one phone call questioning two of the threats (toxic chemical spills and chip mills) identified for the two snails but not opposing the listing. We received one letter in opposition to the listing stating that listing the two snails is unconstitutional because ''Limitations imposed by the Commerce clause require the Fish and Wildlife Service to demonstrate that species regulation has a substantial effect on interstate commerce,'' and because ''Protection of the species in the proposed rule bears no relation to interstate commerce.'' Below, we discuss these issues and our response to each.

Issue 1: Toxic chemicals spills due to the numerous road crossings are not a significant threat to the snails.

Response: We do not consider toxic chemical spills to be imminent threats to these two species; however, the impacts of such an event on any of the three creeks involved could eliminate one-third to one-half of the populations of one or both of these species. Therefore, toxic spills are considered a potential threat.

Issue 2: Chip mills were specifically pointed out as a threat because they act as a ''lightning rod to incite environmental organization.''

Response: We specifically pointed out chip mills as a threat because they have the potential to harvest a larger area of land as compared to typical logging operations. However, if areas harvested for chip mills observe best management practices, it is unlikely they will have any more effect than other land-clearing activities.

Issue 3: ''Piney and Limestone Creeks are in the path of a proposed rock quarry. * * * If these species are endangered, the quarry could only help to speed along the extinction of the snails.''

Response: We agree that a rock quarry could pose a threat to the species, and we will consult with the appropriate agencies or individuals when the action is under our purview. For more details on the section 7 consultation process see the ''Available Conservation Measures'' section of this final rule.

Issue 4: ''Limitations imposed by the Commerce clause require the Fish and Wildlife Service to demonstrate that species regulation has a substantial effect on interstate commerce,'' and ''Protection of the species in the proposed rule bears no relation to interstate commerce.''

Response: The Federal government has the authority under the commerce clause of the U.S. Constitution to protect these species, for the reasons given in Judge Wald's opinion and Judge Henderson's concurring opinion in *National Association of Home Builders* v. *Babbitt,* 130 F.3d 1041 (D.C. Cir. 1997), *cert. denied,* 1185 S. Ct. 2340 (1998). That case involved a challenge to application of the Act's prohibitions to protect the listed Delhi Sands flower-loving fly (*Rhaphiomidas terminatus abdominalis*). As with these species, the Delhi Sands flower-loving fly is endemic to only one state. Judge Wald held that application of the Act's prohibition against taking of endangered species to this fly was a proper exercise of Commerce Clause power to regulate—(1) use of channels of interstate commerce; and (2) activities substantially affecting interstate commerce, because it prevented loss of biodiversity and destructive interstate competition. Judge Henderson upheld protection of the fly because doing so prevents harm to the ecosystem upon which interstate commerce depends, and regulates commercial development that is part of interstate commerce.

Peer Review

In conformance with our policy on peer review, published on July 1, 1994 (59 FR 34270), we solicited the expert opinions of independent specialists regarding pertinent scientific or commercial data and assumptions relating to the supportive biological and ecological information for the armored snail and slender campeloma. The purpose of such review is to ensure that the listing decision is based on the best scientific and commercial information available, as well as to ensure that reviews by appropriate experts and specialists are included into the review process of rulemakings.

We solicited information and opinions from State and Federal resource agencies, as well as academic institutions. We asked them to provide any relevant scientific data relating to taxonomy, distribution, or supporting biological and ecological data used in the analysis of the factors for listing. None of the reviewers objected to the proposed rule or to the biological information supporting the rule.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, we have determined that we should classify the armored snail (*Pyrgulopsis* (=*Marstonia*) *pachyta*) and slender campeloma (*Campeloma decampi*) as endangered species. We followed procedures found at section 4(a)(1) of the Act and regulations implementing the listing provisions of the Act (50 CFR part 424). We may determine a species to be an endangered

or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the armored snail and slender campeloma are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range. The armored snail occurs only in Limestone and Piney Creeks, Limestone County, Alabama, and has never been noted outside this area. The slender campeloma is currently known from Round Island, Piney, and Limestone Creeks, Limestone County, Alabama, a reduction of about three-quarters from its historical range. Both of these species are extremely vulnerable to extirpation because of their very limited distribution, limited occupied habitat, and annual life cycle (in the case of the armored snail). Threats to these species include siltation, direct loss of habitat, altered water chemistry, and chemical pollution.

Piney Creek was a tributary to Limestone Creek prior to the construction of Wheeler Lake on the Tennessee River. Thus, populations of both the armored snail and slender campeloma inhabiting these two creeks are likely remnants of once larger populations. In addition to directly altering snail habitat, dams and their impounded waters form barriers to the movement of snails. Sediment accumulation and changes in flow and water chemistry in impounded stream and river reaches reduce food and oxygen availability and eliminate essential breeding habitat for riverine snails. It is suspected that isolated colonies gradually disappear as a result of local water and habitat quality changes. Unable to emigrate (move out of the area), isolated snail populations are vulnerable to local discharges and any surface run-off within their watersheds. Although many watershed impacts have been temporary, eventually improving or even disappearing with the advent of new technology, practices, or laws, dams and their impoundments prevent natural recolonization by surviving snail populations.

Sedimentation of rivers and streams may affect the reproductive success of aquatic snails by eliminating breeding habitat and interfering with their feeding activity by reducing or eliminating periphyton (plankton which live attached to rooted aquatic plants) food sources. Sources of sediments likely affecting these species include channel modification, agriculture, cattle grazing, unpaved road drainage, and industrial and residential development.

Other types of water quality degradation from both point and nonpoint sources currently affect these species. Stream discharges from these sources may result in eutrophication (nutrient enrichment), decreased dissolved oxygen concentration, increased acidity and conductivity, and other changes in water chemistry. Nutrients, usually phosphorus and nitrogen, may emanate from agricultural fields, residential lawns, livestock operations, and leaking septic tanks at levels that result in eutrophication and reduced oxygen levels in small streams. The Round Island, Limestone, and Piney Creek drainages are dominated by agricultural use, primarily cotton (a high pesticide use crop), which makes these creeks susceptible to pesticide contamination. Pesticide containers were found in Limestone and Piney Creeks during site visits in 1997 (J. Allen Ratzlaff, personal observation). Timber harvesting could also impact these species if riparian vegetation is removed or siltation from run-off increases.

Many bridge crossings occur within these species' range. Highway and bridge construction and widening could impact these species through sedimentation or the physical destruction of their habitat unless appropriate precautions are implemented.

Limestone Creek currently supports one endangered snail species, *Athearnia anthonyi* (Anthony's riversnail), and most of its mussel fauna has been extirpated (17 species), including five species currently listed as endangered. We do not know the specific reasons for the loss of these species, but they are likely a combination of the above-listed impacts.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The two snail species addressed in this final rule are currently not of commercial value, and overutilization has not been a problem. However, as their rarity becomes known, they may become more attractive to collectors. Although scientific collecting is not presently identified as a threat, unregulated collecting by private and institutional collectors could pose a threat to these locally restricted populations.

C. Disease or Predation

Diseases of aquatic snails are unknown. Although various vertebrate predators, including fishes, mammals, and possibly birds, undoubtedly consume both the armored snail and slender campeloma, predation by naturally occurring predators is a normal aspect of the population dynamics of a species and we do not consider it a threat to these species at this time.

Chamberlain (1958) found the uterus of some specimens of *Campeloma decisum* infected by the trematode *Leucochloridomorpha constantiae,* a black duck (*Anas rubripes*) parasite, with the snail evidently being an intermediate host. We do not know whether the slender campeloma is parasitized or to what degree any parasitism inhibits its life cycle.

D. The Inadequacy of Existing Regulatory Mechanisms

The State of Alabama's prohibitions against taking fish and wildlife for scientific purposes without State collecting permits provide some protection for these snails. However, these species are generally not protected from other threats. These snails do not receive any special consideration under other environmental laws when project impacts are reviewed. Existing authorities available to protect aquatic systems, such as the Clean Water Act (CWA), administered by the Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps), have not been adequate to prevent the degradation of these species' aquatic habitat. Federal listing will provide increased protection through existing authorities such as the CWA by requiring Federal agencies to consult with us when projects they fund, authorize, or carry out may adversely affect these species. Federal listing also will provide additional protection under the Act by requiring Federal permits to take these species.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Both species inhabit short creek reaches; thus, they are vulnerable to extirpation from random, catastrophic events, such as toxic chemical spills. All three creeks are crossed by a number of roads, railroads, and power lines that pose direct threats (*e.g.,* loss of riparian vegetation) and indirect threats from potential toxic run-off. Additionally, because these populations are isolated, their long-term genetic viability is questionable. Because all three creeks are isolated by an impoundment, recolonization of an extirpated population is not likely without human intervention.

Further, the loss of 17 species of mussels from Limestone Creek, including 5 species now listed as endangered, indicates a severely

impacted ecosystem that has undergone significant degradation. Because the life history and biology of these species are virtually unknown, it is likely they may continue to decline due to currently unrecognizable impacts and stresses to their populations.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these species in determining to make this rule final. Based on this evaluation, the preferred action is to list the armored snail and slender campeloma as endangered species. The Act defines an endangered species as one that is in danger of extinction throughout all or a significant portion of its range. A threatened species is one that is likely to become an endangered species in the foreseeable future throughout all or a significant portion of its range. The armored snail is currently known only from Piney and Limestone Creeks, Limestone County, Alabama, and the slender campeloma is known only from Piney, Limestone, and Round Island Creeks, Limestone County, Alabama. These snails and their habitat have been and continue to be threatened. Their limited distribution also makes them vulnerable to toxic chemical spills. Because of their restricted distribution and vulnerability to extinction, endangered status is the most appropriate classification for these species.

Critical Habitat

Section 3 of the Act defines critical habitat as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, we designate critical habitat at the time the species is determined to be endangered or threatened. Our regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist—(i) the species is threatened by taking or other activity and the identification of critical habitat can be expected to increase the degree of threat to the species or (ii) such designation of critical habitat would not be beneficial to the species. We find that designation of critical habitat is prudent for the armored snail and slender campeloma.

In the proposed rule, we indicated that designation of critical habitat was not prudent because of a concern that publication of precise maps and descriptions of critical habitat in the **Federal Register** could increase the vulnerability of these species to incidents of collection and vandalism. We also indicated that designation of critical habitat was not prudent because we believed it would not provide any additional benefit beyond that provided through listing as endangered.

In the last few years, a series of court decisions have overturned Service determinations regarding a variety of species that designation of critical habitat would not be prudent (*e.g., Natural Resources Defense Council* v. *U.S. Department of the Interior* 113 F. 3d 1121 (9th Cir. 1997); *Conservation Council for Hawaii* v. *Babbitt,* 2 F. Supp. 2d 1280 (D. Hawaii 1998)). Based on the standards applied in those judicial opinions, we have reexamined the question of whether critical habitat for the armored snail and slender campeloma would be prudent.

Due to the small number of populations, the armored snail and slender campeloma are vulnerable to unrestricted collection, vandalism, or other disturbance. We remain concerned that these threats might be exacerbated by the publication of critical habitat maps and further dissemination of locational information. However, we have examined the evidence available for the armored snail and slender campeloma and have not found specific evidence of taking, vandalism, collection, or trade of these species or any similarly situated species. Consequently, consistent with applicable regulations (50 CFR 424.12(a)(1)(i)) and recent case law, we do not expect that the identification of critical habitat will increase the degree of threat to this species of taking or other human activity.

In the absence of a finding that critical habitat would increase threats to a species, if there are any benefits to critical habitat designation, then a prudent finding is warranted. In the case of this species, there may be some benefits to designation of critical habitat. The primary regulatory effect of critical habitat is the section 7 requirement that Federal agencies refrain from taking any action that destroys or adversely modifies critical habitat. While a critical habitat designation for habitat currently occupied by this species would not be likely to change the section 7 consultation outcome because an action that destroys or adversely modifies such critical habitat would also be likely to result in jeopardy to the species, there may be instances where section 7 consultation would be triggered only if critical habitat is designated. Examples could include unoccupied habitat or occupied habitat that may become unoccupied in the future. There may also be some educational or informational benefits to designating critical habitat. Therefore, we find that critical habitat is prudent for the armored snail and slender campeloma.

The Final Listing Priority Guidance for FY 2000 (64 FR 57114) states, ''The processing of critical habitat determinations (prudency and determinability decisions) and proposed or final designations of critical habitat will no longer be subject to prioritization under the Listing Priority Guidance. Critical habitat determinations, which were previously included in final listing rules published in the **Federal Register**, may now be processed separately, in which case stand-alone critical habitat determinations will be published as notices in the **Federal Register**. We will undertake critical habitat determinations and designations during FY 2000 as allowed by our funding allocation for that year.'' As explained in detail in the Listing Priority Guidance, our listing budget is currently insufficient to allow us to immediately complete all of the listing actions required by the Act. Deferral of the critical habitat designation for the armored snail and slender campeloma will allow us to concentrate our limited resources on higher priority critical habitat (including court order designations) and other listing actions, while allowing us to put in place protections needed for the conservation of armored snail and slender campeloma without further delay. However, because we have successfully reduced, although not eliminated, the backlog of other listing actions, we anticipate in FY 2000 and beyond giving higher priority to critical habitat designation, including designations deferred pursuant to the Listing Priority Guidance, such as the designation for this species, than we have in recent fiscal years.

We plan to employ a priority system for deciding which outstanding critical habitat designations should be

addressed first. We will focus our efforts on those designations that will provide the most conservation benefit, taking into consideration the efficacy of critical habitat designation in addressing the threats to the species, and the magnitude and immediacy of those threats. We will develop a proposal to designate critical habitat for the armored snail and slender campeloma as soon as feasible, considering our workload priorities.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with us.

We notified Federal agencies that may have programs or projects affecting the armored snail and requested information on Federal activities that might adversely affect the species. We did not give notification about the slender campeloma because its range is so similar and because no controversy arose from the notification of the potential listing of the armored snail. No Federal agencies identified specific proposed actions that would likely affect the species. Federal activities that could occur and impact the species include, but are not limited to, reservoir construction or issuance of permits for reservoir construction, stream alterations, wastewater facility development, pesticide registration, and road and bridge construction. Activities affecting water quality may also impact these species and are subject to the Corps' and EPA's regulations and permit requirements under authority of the CWA and the National Pollutant Discharge Elimination System (NPDES). It has been our experience, however, that nearly all section 7 consultations can be resolved so that the species is protected and the project objectives are met.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any endangered wildlife. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to our agents and agents of State conservation agencies.

Under certain circumstances, we may issue permits to carry out otherwise prohibited activities involving endangered wildlife species. Regulations governing permits are at 50 CFR 17.22 for endangered wildlife. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities.

It is our policy, published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify, to the maximum extent practicable, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness as to the effects of this listing on future and ongoing activities within the species' range.

Activities that we believe are not likely to result in a violation of section 9 for these two snails include:

(1) Existing discharges into waters supporting these species, provided these activities are carried out in accordance with existing regulations and permit requirements (*e.g.,* activities subject to sections 404 and 405 of the CWA including discharges regulated under the NPDES);

(2) Actions that may affect these two snail species and are authorized, funded, or carried out by a Federal agency when the action is conducted in accordance with any reasonable and prudent measures given by us in accordance with section 7 of the Act;

(3) Typical agricultural and silvicultural practices carried out in compliance with existing State and Federal regulations and best management practices;

(4) Development and construction activities designed and implemented according to State and local water quality regulations;

(5) Existing recreational activities, such as swimming, wading, canoeing, and fishing; and

(6) Use of pesticides and herbicides in accordance with the label restrictions within the species' watersheds.

Activities that we believe could result in ''take'' of these snails include:

(1) Unauthorized collection or capture of these species;

(2) Unauthorized destruction or alteration of the species' habitat (e.g., in-stream dredging, channelization, water withdrawal, and discharge of fill material);

(3) Violation of any discharge or water withdrawal permit; and

(4) Illegal discharge or dumping of toxic chemicals or other pollutants into waters supporting these two species.

We will review other activities not identified above on a case-by-case basis to determine if a violation of section 9 of the Act may be likely to result from such activity. We do not consider these lists to be exhaustive and provide them simply as information to the public.

You should direct questions regarding whether specific activities may constitute a future violation of section 9 to our Asheville or Daphne Field Offices (see **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** sections). You may request copies of regulations regarding listed species and address questions about prohibitions and permits to the U.S. Fish and Wildlife Service, Ecological Services Division, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Phone 404/679–7313; Fax 404/679–7081).

National Environmental Policy Act

We have determined that we do not need to prepare an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, in connection with regulations adopted pursuant to section 4(a) of the Act. A notice outlining our reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Paperwork Reduction Act

This rule does not contain any new collections of information other than those already approved under the

Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and assigned Office of Management and Budget clearance 1018–0094. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a current valid control number. For additional information concerning permit and associated requirements for endangered wildlife species, see 50 CFR 17.22.

References Cited

You may request a complete list of all references cited herein, as well as others, from the Asheville Field Office (see **ADDRESSES** section).

Author

The primary author of this final rule is Mr. J. Allen Ratzlaff (see **ADDRESSES** section) (828/258–3939, Ext. 229).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under SNAILS, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
SNAILS							
*	*	*	*	*	*	*	
Campeloma, slender	*Campeloma decampi.*	U.S.A. (AL)	NA	E	688	NA	NA
*	*	*	*	*	*	*	
Snail, armored	*Pyrgulopsis* (=*Marstonia*) *pachyta.*	U.S.A. (AL)	NA	E	688	NA	NA
*	*	*	*	*	*	*	

Dated: December 22, 1999.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 00–4373 Filed 2–24–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 990823235–9235–01; I.D. 061699F]

RIN 0648–AM55

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic States; Extension of Effective Date of Closure of the Red Porgy Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule; extension of effective date.

SUMMARY: An emergency interim rule is in effect through March 1, 2000, that prohibits the harvest and possession of red porgy in or from the exclusive economic zone (EEZ) off the southern Atlantic states. NMFS extends the emergency interim rule for an additional 180 days. The intended effect of this rule is to protect the red porgy resource, which is currently overfished.

DATES: The effective date for the emergency interim rule published at 64 FR 48324, September 3, 1999, is extended from March 1, 2000, through August 28, 2000.

ADDRESSES: Copies of documents supporting this action may be obtained from the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702, telephone: 727–570–5305, fax: 727–570–5583.

FOR FURTHER INFORMATION CONTACT: Dr. Peter J. Eldridge, telephone: 727–570–5305, fax: 727–570–5583, email: Peter.Eldridge@noaa.gov.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery off the southern Atlantic states is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council (Council) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

In response to a request from the Council, NMFS published an emergency interim rule (64 FR 48324, September 3, 1999), under section 305(c)(1) of the Magnuson-Stevens Act, that prohibited the harvest and possession of red porgy in or from the EEZ off the southern Atlantic states. This action was required because of the overfished status of red porgy. Red porgy remains overfished.

Under section 305(c)(3)(B) of the Magnuson-Stevens Act, NMFS may extend the effectiveness of an emergency interim rule for one additional period of 180 days, provided the public has had an opportunity to comment on the emergency interim rule and the Council is actively preparing an amendment to the FMP to address the overfishing on a permanent basis. NMFS solicited comments on the initial emergency interim rule and received four comments. The responses are provided in this emergency interim rule. The Council is preparing Amendment

12 to the FMP, which will address the overfished status of red porgy. The effectiveness of the initial emergency interim rule is being extended because red porgy remain overfished and action to address the overfished status under Amendment 12 cannot be implemented by March 1, 2000.

Additional details concerning the basis for the closure of the red porgy fishery are contained in the preamble to the initial emergency interim rule and are not repeated here.

Comments and Responses

NMFS received four comments on the emergency interim rule (64 FR 48324, September 3, 1999). A summary of those comments and NMFS' responses follow.

Comment 1: Three commenters supported the closure of the red porgy fishery and requested that NMFS obtain bycatch data on red porgy taken incidentally by other snapper-grouper fishermen. In addition, they supported the use of marine reserves as a tool to rebuild the overfished red porgy resource.

Response: NMFS agrees, and efforts will be made to collect bycatch data from both commercial and recreational fishermen. Also, NMFS supports the concept of marine reserves and believes that they are a valid management tool.

Comment 2: Three commenters stated that NMFS should have taken action earlier to prevent overfishing of the red porgy resource.

Response: NMFS does not disagree with the comment; however, the full extent of the overfished condition of the red porgy resource was not known until March 1999. The Council and NMFS took action as soon as they received this information.

Comment 3: One commenter stated that the overfished condition of the red porgy resource was caused solely by commercial fishermen and that recreational fishermen and charter boat operators should not be restricted to address that overfishing.

Response: Both the recreational and commercial sectors contributed to the overfishing of the red porgy resource. Both sectors should practice conservation measures to rebuild the resource because both sectors will benefit from this effort in the future.

Comment 4: One commenter opposed the closure of the fishery and recommended that NMFS implement no additional red porgy measures other than those implemented in Amendment 9 to the FMP. The commenter claimed that the red porgy resource was not overfished.

Response: NMFS disagrees with the claim that the red porgy resource is not overfished. The 1999 stock assessment clearly shows that the resource is severely overfished and that there is an urgent need to rebuild this resource. Commercial and recreational landings have declined substantially, and the resource has experienced recruitment failure. A failure to act at this time would exacerbate the decline in this resource. An analysis of the red porgy management measures implemented in Amendment 9 indicated that the measures would have prevented a further decline in abundance. However, the resource would not have recovered if only those measures were applied. Since the Magnuson-Stevens Act requires that managers rebuild overfished resources, additional measures were required. The Council is developing Amendment 12 to the Snapper-Grouper FMP not only to rebuild the resource, but also to minimize the short-term economic impacts of the rebuilding program. The extension of this emergency rule will provide the Council sufficient time to accomplish this task.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that the extension of the emergency interim rule is necessary to minimize significant long-term adverse biological, social, and economic impacts that would occur with the resumption of fishing for red porgy. The AA has also determined that this extension is consistent with the Magnuson-Stevens Act and other applicable laws.

This extension of the emergency interim rule is not subject to review under Executive Order 12866.

NMFS prepared an economic evaluation of the regulatory impacts associated with the emergency interim rule, which is summarized as follows.

During the period 1993 through 1997, annual commercial landings of red porgy averaged 326,800 lb (148,236 kg) with revenues averaging approximately $397,300. Such landings and revenues were approximately 8.2 and 6.3 percent, respectively, of the total landings and revenues of all species landed on trips on which red porgy were landed. An average of 331 vessels per year reported landings of red porgy during this period. The predicted total losses to commercial fishermen would have averaged approximately $365,300 per year between 1993 and 1997 had the red porgy fishery been closed. This prediction is a modeled result based on average vessel harvesting costs per trip. The actual short-term economic effect of a moratorium will depend on individual vessel's trip costs.

As the resource has declined, red porgy have not been an important species for charter vessels, headboats, and other recreational fishing vessels. The headboat sector is the most dominant sector in the fishery, yet red porgy still comprise less than 10 percent of total headboat harvests for all South Atlantic states combined. Data do not exist to estimate the impact of the moratorium on these vessels, but it appears to be minor.

The long-term economic effects of the moratorium cannot be estimated without additional information about the rate at which the red porgy population would recover. Although the economic analysis does not estimate the long-term economic effects of the moratorium, NMFS data indicate that the maximum sustainable yield of red porgy, which is the ultimate goal of the moratorium and future actions to rebuild the resource, is in excess of 1,500,000 lb (680,400 kg), with potential revenues then exceeding $1,800,000 (assuming a price of $1.20 per lb ($2.64 per kg), though it is unlikely that current prices could be maintained while more than tripling the market supply). Copies of the economic evaluation are available (see **ADDRESSES**).

The red porgy resource is severely overfished and stock recruitment (i.e., addition of fish to the red porgy population) is at a dangerously low level. A resumption of fishing will worsen the stock condition, fail to reverse the overfished status, and increase the probability of recruitment and stock collapse, with severe economic impacts on those dependent on the fishery. Thus, continued closure of the fishery has potential significant benefits that outweigh the value of prior notice, opportunity for public comment, and deliberative consideration under the normal rulemaking process. Accordingly, under authority set forth at 5 U.S.C. 553(b)(B), the AA finds that these reasons constitute good cause to waive the requirement to provide prior notice and the opportunity for prior public comment because the delay associated with such procedures would be contrary to the public interest. For these same reasons, under 5 U.S.C. 553(d)(3), the AA finds for good cause that a 30-day delay in the effective date of this emergency interim rule would be contrary to the public interest.

Because prior notice and an opportunity for public comment are not required to be provided for this rule by 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

Dated: February 18, 2000.

Penelope D. Dalton,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 00–4475 Filed 2–24–00; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 65, No. 38
Friday, February 25, 2000

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket No. S–777]

RIN 1218–AB36

Ergonomics Program

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: Proposed rule; dates and location of continuation of informal public hearing.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is providing additional information concerning the dates and locations of the informal public hearing being held as part of the rulemaking on OSHA's proposed Ergonomics Program Standard, published in the **Federal Register** on November 23, 1999 (64 FR 65768).

DATES: *Informal Public Hearing:* The hearing in Washington, DC, will begin at 9:30 a.m., March 13, 2000, and is scheduled to run through April 7, 2000. The hearing will continue in Chicago, Illinois from April 11, beginning at 8:30 a.m., and will run through April 21, 2000, and in Portland, Oregon from April 24, beginning at 8:30 a.m., and continuing through May 3, 2000.

Notice of Intention To Appear at the Informal Public Hearing: Notices of intention appear at the informal public hearing were required to have been postmarked by January 24, 2000. If the scheduling of the hearing in Portland makes it necessary for you to change your requested hearing location or to substitute a witness, you may do so by submitting an amendment to your notice of intention to appear, postmarked no later than March 3, 2000, to Ms. Veneta Chatmon at the address listed below.

ADDRESSES: *Informal Public Hearing:* The informal public hearing to be held in Washington, DC, will be located in the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210. The hearing will continue in Chicago, Illinois at the State of Illinois Building, James R. Thompson Center (Assembly Hall), 100 West Randolph Street, from April 11–21, 2000, and in Portland, Oregon at the Mark Hatfield Federal Court House, 1000 Southwest 3rd Avenue, from April 24 through May 3, 2000.

Amended Notices of Intention To Appear: Mail: If the scheduling of the hearing in Portland makes it necessary for you to change your requested hearing location or to substitute a witness, you may do so by submitting an amendment to your notice of intention to appear at the informal public hearing. The amendment must be postmarked by March 3, 2000, and be sent to: Ms. Veneta Chatmon, OSHA Office of Public Affairs, Docket No. S–777, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N–3647, Washington, DC 20210. Telephone: (202) 693–2119.

Facsimile: You may fax your amendment to your notice of intention to appear to Ms. Chatmon at (202) 693–1634, no later than March 3, 2000.

Electronic: You may also submit your amendment to your notice of intention to appear electronically through OSHA's Homepage at www.osha.gov. no later than March 3, 2000.

FOR FURTHER INFORMATION CONTACT: OSHA's Ergonomics Team at (202) 693–2116, or visit the OSHA Homepage at www.osha.gov.

Authority: This document was prepared under the direction of Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210. It is issued under sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), Secretary of Labor's Order No. 6–96 (62 FR 111), and 29 CFR part 1911.

Signed at Washington, D.C., this 22d day of February, 2000.

Charles N. Jeffress,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 00–4515 Filed 2–24–00; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 251

RIN 0596–AB36

Land Uses; Special Uses; Recovery of Costs for Processing Special Use Applications and Monitoring Compliance With Special Use Authorizations; Extension of Comment Period

AGENCY: Forest Service, USDA.

ACTION: Proposed rule; extension of the comment period.

SUMMARY: On November 24, 1999, the Department of Agriculture, Forest Service, published proposed regulations for recovering costs associated with processing applications for special use authorizations to use and occupy National Forest System lands and monitoring compliance with these special use authorizations (64 FR 66342). The provisions of this proposed rule would apply to applications and authorizations for use of National Forest System lands. On December 29, 1999, the agency extended the comment period to February 24, 2000 (64 FR 72971). The agency is extending the comment period another 14 days to March 9, 2000, to respond to additional requests from organizations and individuals who have requested more time to review and comment on the document.

DATES: Comments must be received in writing by March 9, 2000.

ADDRESSES: Send written comments to Director, Lands Staff, 2720, 4th Floor-South, Sidney R. Yates Federal Building, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090. Submit electronic comments (as an ASCII file if possible) to: gtlands4/wo@fs.fed.us.

Please confine written comments to issues pertinent to the proposed rule and explain the reasons for any recommended changes. Where possible, reference the specific section or paragraph you are addressing. The Forest Service may not include in the administrative record for the proposed rule those comments it receives after the comment period closes (see **DATES**) or comments delivered to an address other than those listed in **ADDRESSES.**

You may view an electronic version of this proposed rule at the Forest Service Internet home page at: http://www.fs.fed.us/recreation/permits/.

All comments, including the names, street addresses, and other contact information about respondents, are placed in the record and are available for public review and copying at the above address during regular business hours (8:30 a.m. to 4:30 p.m.), Monday through Friday, except holidays. Those wishing to inspect comments are encouraged to call ahead, (202) 205–1256, to facilitate access to the building.

FOR FURTHER INFORMATION CONTACT: Randy Karstaedt, Lands Staff, (202) 205–1256 or Ken Karkula, Recreation, Heritage, and Wilderness Resources Staff, (202) 205–1426.

Dated: February 17, 2000.

Hilda Diaz-Soltero,

Associate Chief for Natural Resources.

[FR Doc. 00–4384 Filed 2–24–00; 8:45 am]

BILLING CODE 3410–11–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[GA51–200011b; FRL–6541–8]

Approval and Promulgation of State Plans For Designated Facilities and Pollutants: Georgia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the section 111(d) Plan for the State of Georgia submitted by the Georgia Department of Natural Resources (DNR) on September 15, 1998, for implementing and enforcing the Emissions Guidelines applicable to existing Hospital/Medical/Infectious Waste Incinerators. The Plan was submitted by the Georgia DNR to satisfy certain Federal Clean Air Act requirements. In the Final Rules section of this **Federal Register**, EPA is approving the Georgia State Plan submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates that it will not receive any significant, material, and adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no significant, material, and adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action.

DATES: Comments on this proposed rule must be received in writing by March 27, 2000.

ADDRESSES: Written comments should be addressed to Scott Martin at the EPA Regional Office listed below. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the day of the visit.

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3014. Scott Martin, (404) 562–9036.

Georgia Department of Natural Resources, Air Protection Branch, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354

FOR FURTHER INFORMATION CONTACT: Scott Martin at (404) 562–9036 or Scott Davis at (404) 562–9127.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final action which is located in the Rules section of this **Federal Register** and incorporated by reference herein.

Dated: February 10, 2000.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 00–4230 Filed 2–24–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–257; MM Docket No. 99–204; RM–9623]

Radio Broadcasting Services; Grand View, ID

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; denial.

SUMMARY: This document denies a petition for rule making filed by Mountain West Broadcasting proposing the allotment of FM Channel 228A to Grand View, Idaho, as that locality's first local aural transmission service. See 64 FR 31175, June 10, 1999. Evidence presented established that the proposed reference coordinates at 42–53–47 NL and 116–50–30 WL to accommodate Channel 228A are located in a wilderness area managed by the Bureau of Land Management (''BLM''). The BLM stated that in the absence of environmental studies, the referenced site will not be designated as suitable for future use as an electronics site. The petitioner did not present any engineering showings to establish the availability of an alternate site. With this action, the proceeding is terminated.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–204, adopted February 2, 2000, and released February 11, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, D.C. 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–4352 Filed 2–24–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 00–262, MM Docket No. 00–24, RM–9781]

Radio Broadcasting Services; Red Lodge and Joliet, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a Petition for Rule Making filed by Silver Rock Communications, Inc. proposing the substitution of Channel 257C1 for Channel 257A at Red Lodge, Montana, and modification of the license for Station KMXE–FM

accordingly. The coordinates for Channel 257C1 at Red Lodge are 45–11–39 and 109–20–32. To accommodate the allotment at Red Lodge we shall also substitute Channel 292C3 for vacant Channel 259C3 at Joliet, Montana, at coordinates 45–29–06 and 108–58–18. In accordance with Section 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest for the use of Channel 257C1 at Red Lodge or require petitioner to demonstrate the availability of additional equivalent class channels for use by such parties.

DATES: Comments must be filed on or before April 3, 2000, and reply comments on or before April 18, 2000.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners' counsel, as follows: Jeffrey D. Southmayd, Southmayd & Miller, 1220 19th Street, NW, Suite 400, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–24, adopted February 2, 2000, and released February 11, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW, Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–4351 Filed 2–24–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 00–260, MM Docket No. 00–23, RM–9819]

Radio Broadcasting Services; Hayward, WI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Escanaba License Corp. proposing the allotment of Channel 232C2 at Hayward, Wisconsin, as the community's third local FM service. The coordinates for Channel 232C2 at Hayward are 46–15–04 and 91–23–01. There is a site restriction 26.4 kilometers (16.4 miles) north of the community. Canadian concurrence will be requested for the allotment of Channel 232C2 at Hayward.

DATES: Comments must be filed on or before April 3, 2000, and reply comments on or before April 18, 2000.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Lyle Robert Evans, President, Escanaba License Corp., 1101 Ludington Street, Escanaba, Michigan 49829.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–23, adopted February 2, 2000, and released February 11, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 00–4350 Filed 2–24–00; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 65, No. 38
Friday, February 25, 2000

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collections Being Reviewed by the U.S. Agency for International Development; Comments Requested

SUMMARY: U.S. Agency for International Development (USAID) is making efforts to reduce the paperwork burden. USAID invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act for 1995. Comments are requested concerning: (a) whether the proposed or continuing collections of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Send comments on this information collection on or before April 3, 2000.

FOR FURTHER INFORMATION CONTACT: Beverly Johnson, Bureau for Management, Office of Administrative Services, Information and Records Division, U.S. Agency for International Development, Room 2.07–106, RRB, Washington, D.C. 20523, (202) 712–1365 or via E-mail bjohnson@usaid.gov.

SUPPLEMENTARY INFORMATION:

*OMB No:*OMB 0412–0035.

*Form No.:*AID 1550–2.

*Title:*Private and Voluntary Organization Annual Return.

*Type of Review:*Renewal of Information Collection.

*Purpose:*USAID is required to collect information regarding the financial support of private and voluntary organizations registered with the Agency. The information is used to determine the eligibility of PVOs to receive USAID funding.

Annual Reporting Burden:

*Respondents:*442.

*Total annual responses:*442.

*Total annual hours requested:*1,320 hours.

Dated: February 14, 2000.

Joanne Paskar,

Acting Chief, Information and Records Division, Office of Administrative Services, Bureau for Management.

[FR Doc. 00–4395 Filed 2–24–00; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Request for Comments; Volunteer Application for Natural Resource Agencies

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service announces its intention to reinstate a previously approved information collection. The collected information will help the Forest Service match the skills of individuals, who are applying for volunteer work on National Forest System lands, with work that can be accomplished by volunteers. Information will be collected from potential volunteers of all ages. Those under age 18 must have written consent from their parent or guardian.

DATES: Comments must be received in writing on or before April 25, 2000.

ADDRESSES: All comments should be addressed to Director, Senior, Youth and Volunteer Programs Staff, (Mail Stop 1136), Forest Service, USDA, P.O. Box 96090, Washington, D.C. 20090–6090.

FOR FURTHER INFORMATION CONTACT: Donald T. Hansen, Program Manager, Senior, Youth and Volunteer Programs Staff, at (703) 605–4851.

SUPPLEMENTARY INFORMATION:

Background

The Volunteer Act of 1972, as amended, authorizes the Forest Service to recruit and train volunteer workers to accomplish certain work, such as building and maintaining trails, constructing campground facilities, improving wildlife habitat, assisting with interpretive services, assisting visitors, or other activities to help the agency meet its mission. Volunteers can be any age, as long as they are capable of doing the work for which they volunteer.

Persons interested in volunteering will have to write or call the Forest Service volunteer coordinator and request a copy of the form, the Volunteer Application for Natural Resource Agencies. Forest Service personnel developed this form for multi-agency use in cooperation with the Bureau of Land Management, Fish and Wildlife Service, the National Park Service, the Department of the Army–Corps of Engineers, and the Tennessee Valley Authority. Multi-agency use of the Volunteer Application for Natural Resource Agencies form will enhance cooperation between agencies. Information gleaned from the form will support the efforts to develop a multi-agency computer-assisted volunteer database referral system, which will enable agencies to tap into the vast resource of volunteers. Currently, each agency maintains its own volunteer resource database.

Description of Information Collection

The following describes the information collection to be reinstated:

Title: Volunteer Application for Natural Resource Agencies.

OMB Number: 0596–0080.

Expiration Date of Approval: January 31, 1998.

Type of Request: Reinstatement, without change, of a previously approved information collection for which approval has expired.

Abstract: Forest Service employees will evaluate the collected information to match the skills of volunteers with the work the agency needs to accomplish.

Individuals interested in volunteering will have to write or call the agency volunteer and request a copy of the form, Volunteer Application for Natural Resource Agencies. The volunteer then will have to complete the form and return it to the agency volunteer coordinator, either in person or by mail.

Potential volunteers will be asked to respond to questions that include their telephone number, their age, the work

categories in which they are most interested in volunteering, their past work experience, their educational background, the specific kind of volunteer work they would like to do, if they have volunteered before, if they would be interested in supervising others, any physical limitations that may limit the kind of volunteer work they can do, their reason for volunteering, the months they would be available to volunteer, if they require lodging, and if a volunteer assignment is not available for them, would they like to have their application forwarded to other agencies. The potential volunteer then returns the form to the agency in person or by mail.

The agency volunteer coordinator, along with other agency personnel, will evaluate the completed form to determine if the person's skills and physical condition match agency volunteer opportunities.

Data gathered in this information collection are not available from other sources.

Estimate of Annual Burden: 15 minutes.

Type of Respondents: Individuals.

Estimated Annual Number of Respondents: 58,100.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 14,525 hours.

Comment is Invited

The agency invites comments on the following: (a) Whether the proposed collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Use of Comments

All comments received in response to this notice, including names and addresses when provided, will become a matter of public record. Comments will be summarized and included in the request for Office of Management and Budget approval.

Dated: February 18, 2000.

Clyde Thompson,

Deputy Chief for Business Operations.

[FR Doc. 00–4436 Filed 2–24–00; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Eastern Washington Cascades Provincial Advisory Committee and Yakima Provincial Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Eastern Washington Cascades Provincial Advisory Committee and Yakima Provincial Advisory Committee will meet on Tuesday, March 7, 2000, at the Wenatchee National Forest headquarters main conference room, 215 Melody Lane, Wenatchee, Washington. The meeting will begin at 9:00 a.m. and continue until 3:30 p.m. Much of the agenda for this meeting will be devoted to helping members decide where to focus committee efforts in the coming year, and to agree on ways to work together more effectively. There will also be updates on new developments in the implementation of the Northwest Forest plan. All Eastern Washington Cascades and Yakima Province Advisory Committee meetings are open to the public. Interested citizens are welcome to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Paul Hart, Designated Federal Official, USDA, Wenatchee National Forest, 215 Melody Lane, Wenatchee, Washington, 98801, 509–662–4335.

Dated: February 18, 2000.

Sonny J. O'Neal,

Forest Supervisor, Wenatchee National Forest.

[FR Doc. 00–4431 Filed 2–24–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Changes to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Wisconsin

AGENCY: Natural Resources Conservation Service (NRCS) in Wisconsin, US Department of Agriculture.

ACTION: Notice of availability of a proposed change in Section IV of the FOTG of the NRCS in Wisconsin for review and comment.

SUMMARY: it is the intention of NRCS in Wisconsin to issue a revised conservation practice standard in Section IV of the FOTG. The revised standard is Fence (Code 382). This practice may be used in conservation systems that treat highly erodible land.

DATES: Comments will be received for a 30-day period commencing with this date of publication.

FOR FURTHER INFORMATION CONTACT: Inquire in writing to Donald A. Baloun, Assistant State Conservationist, Natural Resources Conservation Service (NRCS), 6515 Watts Road, Suite 200 Madison, WI 53719–2726. Copies of this standard will be made available upon written request. You may submit electronic requests and comments to dbaloum@wi.nrcs.usda.gov

FOR FURTHER INFORMATION CONTACT: Donald A. Baloun, 608–276–8732.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law, to NRCS state technical guides used to carry out highly erodible land and wetland provisions of the law, shall be made available for public review and comment. For the next 30 days, the NRCS in Wisconsin will receive comments relative to the proposed change. Following that period, a determination will be made by the NRCS in Wisconsin regarding disposition of those comments and a final determination of change will be made.

Dated: November 23, 1999.

Patricia S. Leavenworth,

State Conservationist, Madison, Wisconsin.

[FR Doc. 00–4378 Filed 2–24–00; 8:45 am]

BILLING CODE 3410–16–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled

ACTION: Addition to the Procurement List.

SUMMARY: This action adds to the Procurement List a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: March 27, 2000.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot (703) 603–7740.

SUPPLEMENTARY INFORMATION: On December 17, 1999, the Committee for Purchase From People Who Are Blind or Severely Disabled published a notice (64 F.R. 70694) of proposed addition to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the service and impact of the addition on the current or most recent contractors, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. The action will not have a severe economic impact on current contractors for the service.

3. The action will result in authorizing small entities to furnish the service to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List.

Accordingly, the following service is hereby added to the Procurement List: Food Service Attendant, Fort Drum, New York.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Rita L. Wells,

Deputy Director (Policy and Program Coordination).

[FR Doc. 00–4479 Filed 2–24–00; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 27, 2000.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot (703) 603–7740

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Administrative Services

Internal Revenue Service Collections Department, 1100 Commerce Street, Dallas, Texas
NPA: Dallas Lighthouse for the Blind, Inc., Dallas, Texas
Internal Revenue Service Mailroom, 1100 Commerce Street, Dallas, Texas
NPA: Dallas Lighthouse for the Blind, Inc., Dallas, Texas
Internal Revenue Service Mailroom, 1919 Smith Street, Houston, Texas
NPA: The Lighthouse of Houston, Houston, Texas
Telephone Switchboard Operations
Department of Veterans Affairs Medical Center, 100 Emancipation Drive, Hampton, Virginia
NPA: Association for Retarded Citizens of the Peninsula, Inc., Hampton, Virginia

Rita L. Wells,

Deputy Director (Policy and Program Coordination).

[FR Doc. 00–4480 Filed 2–24–00; 8:45 am]

BILLING CODE 6353–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Nevada Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Nevada Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 12:00 p.m. on March 17, 2000, at the Crowne Plaza, 4255 South Paradise Road, Las Vegas, Nevada 89109. The purpose of the meeting is to plan future projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–3435). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 18, 2000.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 00–4500 Filed 2–24–00; 8:45 am]

BILLING CODE 6335–01–P

UNITED STATES COMMISSION ON CIVIL RIGHTS

Sunshine Act Notice

AGENCY: U.S. Commission on Civil Rights.

DATE AND TIME: Friday, March 3, 2000; 9:30 a.m.

PLACE: U.S. Commission on Civil Rights, 624 Ninth Street, NW, Room 540, Washington, DC 20425.

STATUS

Agenda

I. Approval of Agenda
II. Approval of Minutes of February 18, 2000 Meeting
III. Announcements
IV. Staff Director's Report
V. State Advisory Committee Appointments for Colorado, Georgia and Tennessee
VI. Discussion on Diversity Issues in Network Television
VII. Discussion on Zero Tolerance Briefing
VIII. Discussion with Regional Directors
IX. Future Agenda Items

CONTACT PERSON FOR FURTHER INFORMATION: David Aronson, Press and Communications (202) 376–8312.

Edward A. Hailes, Jr.,

Acting General Counsel.

[FR Doc. 00–4605 Filed 2–23–00; 2:29 pm]

BILLING CODE 6335–00–M

DEPARTMENT OF COMMERCE

International Trade Administration

Extension of Time Limit for Preliminary Results of Full Five-Year Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Extension of Time Limit for Preliminary Results of Full Five-Year (''Sunset'') Reviews.

SUMMARY: The Department of Commerce (''the Department'') is extending the time limit for the preliminary results of two full sunset reviews initiated on November 2, 1999 (64 FR 59160) covering an antidumping duty order and a suspended antidumping investigation. Based on adequate responses from domestic and respondent interested parties, the Department is conducting full sunset reviews to determine whether revocation of the antidumping duty order on DRAMS of 1 megabit and above from South Korea and the termination of the suspended antidumping investigation on silicomanganese from Ukraine would be likely to lead to continuation or recurrence of dumping. As a result of these extensions, the Department intends to issue its preliminary results not later than May 22, 2000.

EFFECTIVE DATE: February 25, 2000.

FOR FURTHER INFORMATION CONTACT: Mark D. Young or Melissa G. Skinner, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482–6397, or (202) 482–1560 respectively.

Extension of Preliminary Results:

In accordance with section 751(c)(5)(C)(v) of the Tariff Act of 1930, as amended (''the Act''), the Department may treat a sunset review as extraordinarily complicated if it is a review of a transition order (i.e., an order in effect on January 1, 1995). The reviews at issue concern transition orders within the meaning of section 751(c)(6)(C)(ii) of the Act. The Department has determined that the sunset reviews of the following antidumping duty order and suspended antidumping investigation are extraordinarily complicated:

A–583–816 Silicomanganese from Ukraine
A–580–812 DRAMS of 1 Megabit and Above from South Korea

Therefore, the Department is extending the time limit for completion of the preliminary results of these reviews until not later than May 22, 2000, in accordance with section 751(c)(5)(B) of the Act.

Dated: February 18, 2000.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 00–4523 Filed 2–24–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–601]

Brass Sheet and Strip From Canada: Amended Final Results of Antidumping Duty Administrative Review in Accordance With Panel Decision Upon Remand

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amendment to final results of antidumping duty administrative review in accordance with Panel decision upon remand.

SUMMARY: As a result of a remand from a Binational Panel (''the Panel''), convened pursuant to the North American Free Trade Agreement (''NAFTA''), the Department of Commerce (''the Department'') is amending its final results in the antidumping duty administrative review of Brass Sheet and Strip from Canada. The Department has determined, in accordance with the instruction of the Panel, the dumping margin for entries of Brass Sheet and Strip from Canada for the 1996 period of review to be 0.40 percent.

EFFECTIVE DATE: February 25, 2000.

FOR FURTHER INFORMATION CONTACT: Paige Rivas or James Terpstra, Office of Antidumping/Countervailing Duty Enforcement, Office Four, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0651 or 482–3965, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 17, 1998, the Department published the final results of the antidumping duty administrative review for the period January 1, 1996 through December 31, 1996 with respect to Brass Sheet and Strip from Canada. *Brass Sheet and Strip from Canada: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Order in Part* (''*Final Results*''), 64 Fed. Reg. 33037.

Subsequent to the publication of those *Final Results,* the sole respondent, Wolverine Tube (Canada) Inc. (''Wolverine''), and a coalition representing the United States brass industry (''Petitioner'') challenged the Department's findings and requested that the Panel review the *Final Results* with respect to various issues. Thereafter, at the Department's request, the Panel remanded the Department's final determination to permit the Department to correct its use of a simple-average cost of production instead of a weighted-average cost of production for Wolverine. *In the Matter of: Brass Sheet and Strip from Canada,* Secretariat File USA–CAN–98–1904–03 (July 16, 1999). The July 16, 1999 Decision of the Panel upheld the Department as to all other contested issues.

On remand, the Department recalculated Wolverine's cost of production using a weighted-average methodology. The recalculated margin for Wolverine was 0.40 percent. During the 1996 review, Wolverine, which had

received *de minimis* margins in the 1994 and 1995 reviews, had requested that it be revoked from the antidumping duty order if it received a third *de minimis* margin in the 1996 review. In the *Final Results,* Commerce did not reach the question of whether Wolverine had otherwise met the criteria for revocation from the order because Wolverine had not met the first criterion for revocation. Specifically Wolverine had not obtained a third sequential *de minimis* margin in the 1996 review. 64 FR at 33041. Therefore, on remand, the Department went on to consider whether, in view of the recalculated *de minimis* margin for the 1996 review, Wolverine met the other criteria for revocation from the order. The Department determined that, because Wolverine had received an above *de minimis* margin in the 1997 review, this margin constituted sufficient positive evidence that the discipline of the order continued to be necessary to offset dumping by Wolverine, and that, were the order to be revoked, it was likely that Wolverine would continue to dump subject merchandise in the United States. The Department submitted its remand determination, upon which parties had been allowed to comment, to the Panel on September 14, 1999.[1]

On November 5, 1999, the Panel affirmed the remand redetermination of the Department. *In the Matter of: Brass Sheet and Strip from Canada,* Secretariat File USA–CAN–98–1904–03 (November 5, 1999)(Order of the Panel). As a result, the margin for Wolverine for the 1996 POR was reduced from 0.67 to 0.40 percent.

Suspension of Liquidation

There is now a final and conclusive decision in the Panel proceeding. *See North American Free-Trade Agreement, Article 1904 NAFTA Panel Reviews; Notice of Completion of Panel Review,* 64 FR 73015 (December 29, 1999). Therefore, effective as of the publication date of this notice, the following final weighted-average percent margin exists:

Producer/manufacturer/exporter	Weight-average percent
Wolverine	0.40

Due to the fact that 0.40 percent is considered *de minimis,* pursuant to 19 CFR 351.106(c), the Department will instruct the Customs Service to liquidate at zero percent all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption during the period January 1, 1996 through December 31, 1996. The Customs Service will continue to suspend liquidation of future entries and require a cash deposit in the amount of the margin calculated in the most recent administrative review, *i.e.,* the cash deposits described in the final results of the 1997 review. *See Brass Sheet and Strip from Canada: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not to Revoke Order in Part,* 64 FR 46344, 46349 (August 25, 1999).

This notice is published pursuant to 19 U.S.C. 1516a(g)(5)(B)(1996); section 735(d) of the Tariff Act of 1930, as amended (19 U.S.C. 1673d(d)(1996)); and 19 CFR 351.210(c).

Dated: February 14, 2000.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 00–4522 Filed 2–24–00; 8:45 am]

BILLING CODE 3510–DS–P

[1] For a complete discussion of the Department's reasoning with respect to the remand issues, see *Redetermination on Remand: Brass Sheet and Strip from Canada; Final Results of Antidumping Duty Administrative Review* (September 14, 1999).

DEPARTMENT OF COMMERCE

International Trade Administration

Closed Meeting of the U.S. Automotive Parts Advisory Committee (APAC)

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The APAC will have a closed meeting on March 10, 2000, at the U.S. Department of Commerce to discuss U.S.-made automotive parts sales in Japanese and other Asian markets.

DATES: March 10, 2000.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Reck, U.S. Department of Commerce, Room 4036, Washington, DC 20230, telephone: 202–482–1418.

SUPPLEMENTARY INFORMATION: The U.S. Automotive Parts Advisory Committee (the ''Committee'') advises U.S. Government officials on matters relating to the implementation of the Fair Trade in Automotive Parts Act of 1998 (Public Law 105–261). The Committee: (1) Reports to the Secretary of Commerce on barriers to sales of U.S.-made automotive parts and accessories in Japanese and other Asian markets; (2) reviews and considers data collected on sales of U.S.-made auto parts and accessories in Japanese and other Asian markets; (3) advises the Secretary of Commerce during consultations with other Governments on issues concerning sales of U.S.-made automotive parts in Japanese and other Asian markets; and (4) assists in establishing priorities for the initiative to increase sales of U.S.-made auto parts and accessories to Japanese markets, and otherwise provide assistance and direction to the Secretary of Commerce in carrying out the intent of that section; and (5) assists the Secretary of Commerce in reporting to Congress by submitting an annual written report to the Secretary on the sale of U.S.-made automotive parts in Japanese and other Asian markets, as well as any other issues with respect to which the Committee provides advice pursuant to its authorizing legislation. At the meeting, committee members will discuss specific trade and sales expansion programs related to automotive parts trade policy between the United States and Japan and other Asian markets.

The Assistant Secretary for Administration, with the concurrence of the General Counsel formally determined on February 24, 2000, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended, that the March 10 meeting of the Committee and of any subcommittee thereof, dealing with privileged or confidential commercial information may be exempt from the provisions of the Act relating to open meeting and public participation therein because these items are concerned with matters that are within the purview of 5 U.S.C. 552b (c)(4) and (9)(B). A copy of the Notice of Determination is available for public inspection and copying in the Department of Commerce Records Inspection Facility, Room 6020, Main Commerce.

Dated: February 22, 2000.

Henry P. Misisco,

Director, Office of Automotive Affairs.

[FR Doc. 00–4495 Filed 2–24–00; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 981013257–9194–01]

RIN 0692–ZA 25

Announcing Approval of Withdrawal of Thirty-Three Federal Information Processing Standards (FIPS) Publications

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice.

SUMMARY: The purpose of this notice is to announce that the Secretary of Commerce has approved the withdrawal of thirty-three Federal Information Processing Standards (FIPS) Publications.

These FIPS are being withdrawn because they are obsolete, or have not been updated to adopt current voluntary industry standards. Most of these FIPS adopt voluntary industry standards for Federal government use. In some cases, the FIPS documents have not been updated to adopt current or revised voluntary industry standards. This situation preserves obsolete, but mandatory, standards for agency use. In other cases, commercial products implementing the voluntary industry standards are widely available; as a result it is no longer necessary for the Government to mandate standards that duplicate industry standards.

The Information Technology Management Reform Act of 1996 (Division E of Public Law 104–106) and Executive Order 13011 signed by the President emphasize agency management of information technology and Government-wide interagency support activities to improve productivity, security, interoperability, and coordination of Government resources. Federal agencies and departments are directed by the National Technology Transfer and Advancement Act of 1995, Public Law 104–113, to use technical standards that are developed in voluntary consensus standards bodies.

EFFECTIVE DATE: This withdrawal is effective February 25, 2000.

FOR FURTHER INFORMATION CONTACT: Ms. Shirley M. Radack, telephone (301) 975–2833, National Institute of Standards and Technology, Gaithersburg, MD 20899.

SUPPLEMENTARY INFORMATION: On November 13, 1998, notice was published in the **Federal Register** (63 FR 9199) proposing the withdrawal of thirty-one Federal Information Processing Standards (FIPS) Publications, because the technical specifications that they adopt are obsolete and are no longer supported by industry. No comments from industry, Government, or the public were received concerning this proposed withdrawal. In addition, FIPS 103, Codes for the Identification of Hydrologic Units in the United States and the Caribbean Outlying Areas, and FIPS 160, C, are also being withdrawn. These FIPS had been proposed for withdrawal in the **Federal Register** (61 FR 46444–46445 dated September 3, 1996). FIPS 103 was retained until the U.S. Geological Survey developed revised codes for hydrologic units. Since these revised codes are now available, FIPS 103 is no longer needed. FIPS 160 was retained until the NIST validation program for the FIPS ended. Since the program has ended, FIPS 160 is no longer needed.

Withdrawal means that the FIPS will no longer be part of a subscription series that is provided by the National Technical Information Service, and that NIST will no longer be able to support the standards by answering implementation questions or updating the FIPS when the voluntary industry standards are revised.

This notice provides the FIPS publication number, title, and the technical specifications number for each of the thirty-three FIPS Publications being withdrawn:

—FIPS 21–4, COBOL (ANSI X3.23–1985,X3.23a–1989&X3.23b–1993)
—FIPS 29–3, Interpretation Procedures for Federal Information Processing Standards for Software
—FIPS 101, Guideline for Lifecycle Validation, Verification, and Testing of Computer Software
—FIPS 103, Codes for the Identification of Hydrologic Units in the United States and the Caribbean Outlying Areas
—FIPS 106, Guideline on Software Maintenance
—FIPS 119–1, Ada (ANSI/ISO/IEC 8652:1995)
—FIPS 132, Guideline for Software Verification and Validation Plans (ANSI/IEEE 1012–1986)
—FIPS 137, Analog to Digital Conversion of Voice by 2,400 Bit/Second Linear Predictive Coding
—FIPS 139, Interoperability and Security Requirements for Use of the Data Encryption Standard in the Physical Layer of Data Communications
—FIPS 141, Interoperability and Security Requirements for Use of the Data Encryption Standard with CCITT Group 3 Facsimile Equipment
—FIPS 144, Data Communication Systems and Services User-Oriented Performance Parameters (ANSI X3.102–1983/R1990
—FIPS 150, Facsimile Coding Schemes and Coding Control Functions for Group 4 Facsimile Apparatus (EIA–538–1988)
—FIPS 151–2, Portable Operating System Interface (POSIX)—System Application Program Interface [C Language] (ISO/IEC 9945–1:1900)
—FIPS 155, Data Communication Systems and Services User-Oriented Performance Measurement Methods (ANSI X3.141–1987)
—FIPS 160, C (ANSI/ISO 9899:1992).
—FIPS 162, 1,200 Bits Per Second Two-Wire Duplex Modems for Data Communications Use on Telephone-Type Circuits
—FIPS 163, 2,400 Bits Per Second Two-Wire Duplex Modems for Data Communications Use on Telephone-Type Circuits
—FIPS 164, 2,400 Bits Per Second Four-Wire Duplex and Two-Wire Half-Duplex Modems for Data Communications Use on Telephone-Type Circuits
—FIPS 165, 4,800 Bits Per Second Four-Wire Duplex and Two-Wire Half-Duplex Modems for Data Communications Use on Telephone-Type Circuits
—FIPS 166, 4,800 and 9,600 Bits Per Second Two-Wire Duplex Modems for Data Communications Use on Telephone-Type Circuits
—FIPS 167, 9,600 Bits Per Second Four-Wire Duplex Modems for Data Communications Use on Telephone-Type Circuits
—FIPS 168, 12,000 and 14,400 Bits Per Second Four-Wire Duplex Modems for Data Communications Use on Telephone-Type Circuits
—FIPS 169, Error Correction in Modems Employing Asynchronous-To-Synchronous Conversion
—FIPS 170, Data Compression in Modems Employing CCITT Recommendation V.42 Error Correction
—FIPS 172–1, VHSIC Hardware Description Language (VHDL) (ANSI/IEEE 1076–1993)
—FIPS 175, Federal Building Standard for Telecommunications Pathways and Spaces (ANSI/EIA/TIA–569–1990)
—FIPS 176, Residential and Light Commercial Telecommunications Wiring Standard (ANSI/EIA/TIA–570–1991)
—FIPS 182, Integrated Services Digital Network (ISDN)
—FIPS 187, Administration Standard for the Telecommunications Infrastructure of Federal Buildings (ANSI/TIA/EIA–606–1993)
—FIPS 189, Portable Operating System Interface (POSIX)—Part 2: Shell and Utilities (ISO/IEC 9945–2:1993)
—FIPS 193, SQL Environments
—FIPS 194, Open Document Architecture (ODA) Raster Document Application Profile (DAP) (ISO/IEC 12064–1 ISP/FOD112)
—FIPS 195, Federal Building Grounding and Bonding Requirements for Telecommunications (ANSI/TIA/EIA–607–1994)

NIST recommended that the Secretary approve the withdrawal of the thirty-

three FIPS Publications, and prepared a detailed justification document for the Secretary's review in support of that recommendation.

Authority: Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology after approval by the Secretary of Commerce pursuant to Section 5131 of the Information Technology Management Reform Act of 1996 and the Computer Security Act of 1987, Public Law 100–235.

Dated: February 17, 2000.

Karen H. Brown,

Deputy Director, NIST.

[FR Doc. 00–4512 Filed 2–24–00; 8:45 am]

BILLING CODE 3510–CN–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 022200A]

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Capital Construction Fund—Deposit Report.

Agency Form Number(s): NOAA Form Number 38–42.

OMB Approval Number: 0648–0041.

Type of Request: Extension of a currently approved collection.

Burden: 1,650 hours.

Number of Respondents: 4,000.

Avg. Hours Per Response: 20 minutes (some respondents fill out more than one form).

Needs and Uses: Created by the Merchant Marine Act, the Capital Construction Fund program enables fishermen to construct, reconstruct, or refurbish vessels with before-tax, rather than after-ta dollars. Fishermen holding Capital Construction Fund Agreements are required to submit annual information on their deposits and withdrawals from their accounts. The information is used to check compliance with NOAA and IRS requirements.

Affected Public: Businesses or other-for profit organizations.

Frequency: Annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5027, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: February 17, 2000.

Linda Engelmeier,

Department Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 00–4476 Filed 2–24–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 022200B]

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Highly Migratory Species Tournament Reporting.

Agency Form Number(s): n/a

OMB Approval Number: 0648–0323.

Type of Request: Revision of a currently approved collection.

Burden: 110 hours.

Number of Respondents: 300.

Avg. Hours Per Response: Ranges between 2 minutes and 20 minutes depending on the requirement.

Needs and Uses: NMFS requires that operators of fishing tournaments involving Highly Migratory Species provide advance identification of the tournament and then to provide information after the tournament on the Highly Migratory Species caught, whether they were kept or released, the length and weight of the fish, and other information. Most of the data required for post-tournament reporting is already collected in the routine course of tournament operations. The data collected is needed by NMFS to estimate the total annual catch of these species and to evaluate the impact of tournament fishing in relation to other types of fishing.

Affected Public: Businesses or other-for profit organizations.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce,

Room 5027, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: February 16, 2000.

Linda Engelmeier,

Department Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 00–4478 Filed 2–24–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 960223046–0042–05; I.D. 101299G]

RIN 0648–ZA09

Proposed FY 2001 Scope and Funding Priorities for Financial Assistance for Research and Development Projects to Strengthen and Develop the U.S. Fishing Industry

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notification of proposed priorities; request for comments.

SUMMARY: NMFS (hereinafter referred to as ''we'' or ''us'') issues this document to describe the proposed scope and funding priorities for the Saltonstall-Kennedy (S–K) Grant Program for fiscal year (FY) 2001 and to ask interested members of the public (''you'') for comments. This is not a solicitation for grant applications.

DATES: We must receive your comments by close of business March 13, 2000, in the office listed in **ADDRESSES**.

ADDRESSES: Send comments to: Alicia L. Jarboe, S–K Program Manager, Financial Services Division (F/SF2), 1315 East West Highway, Silver Spring, MD 20901.

FOR FURTHER INFORMATION CONTACT: Alicia L. Jarboe, S–K Program Manager, (301) 713–2358.

SUPPLEMENTARY INFORMATION:

Introduction

Under the S–K Grant Program, we provide financial assistance on a competitive basis for research and development projects that address various aspects of U.S. fisheries (commercial or recreational). We solicit applications once each year through a notice published in the **Federal Register**. Applicants have 60 days from the date that notice is published to submit applications. This document is not a solicitation for applications.

We expect to publish the next solicitation notice for the S–K Program around March 15, 2000. That solicitation will seek applications for FY 2001, which begins on October 1, 2000. That notice will describe the scope and funding priorities, as well as eligibility requirements, application instructions, and the deadline for applying.

To be considered for possible funding, applications must propose activities that address one of the published funding priorities within the scope of the program. However, the S–K Program does not fund projects that primarily involve infrastructure construction, port and harbor development, or start-up or operational costs for private business ventures.

We invite you to comment on any aspect of the proposed scope and priorities for FY 2001, especially whether the priorities are sufficiently detailed and specific as to the types of proposals sought.

To obtain information about the S–K Program and other related documents mentioned in this notice, you can contact the NMFS Regional Administrator located at any office listed here:

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930; (978) 281–9267.

Southeast Region, NMFS, 9721 Executive Center Drive, North, St. Petersburg, FL 33702–2432, (727) 570–5324.

Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213, (562) 980–4033.

Northwest Region, NMFS, 7600 Sand Point Way, N.E., BIN C15700, Building 1, Seattle, WA 98115, (206) 526–6115.

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802 or Federal Building, 709 West 9th Street, 4th Floor, Juneau, AK 99801–1668, (907) 586–7224.

Background

The Saltonstall-Kennedy Act (S–K Act), as amended (15 U.S.C. 713c–3), established a fund (known as the S–K fund) that the Secretary of Commerce uses to provide grants or cooperative agreements for fisheries research and development projects addressed to any aspect of U.S. fisheries, including, but not limited to, harvesting, processing, marketing, and associated infrastructures. U.S. fisheries [1] include any fishery, commercial or recreational, that is or may be engaged in by citizens or nationals of the United States, or citizens of the Northern Mariana Islands, the Republic of the Marshall Islands, Republic of Palau, and the Federated States of Micronesia.

The objectives of the S–K Grant Program, and, therefore, the funding priorities, have changed over the years since the program began in 1980. The program has evolved as Federal fishery management laws and policies, and research needs, have evolved in response to changing circumstances.

The original focus of the program was to develop underutilized fisheries within the U.S. Exclusive Economic Zone (EEZ). This focus was driven in part by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Magnuson-Stevens Act, originally passed in 1976, directed us to give the domestic fishing industry priority access to the fishery resources in the EEZ. In 1980, the American Fisheries Promotion Act amended the S–K Act to stimulate commercial and recreational fishing efforts in underutilized fisheries. The competitive S–K Program that was initiated as a result included fisheries development and marketing as funding priorities.

In the following years, the efforts to Americanize the fisheries were successful to the point that most nontraditional species were fully developed and some traditional fisheries became overfished. Therefore, we changed the emphasis of the S–K Program to address conservation and management issues and aquaculture.

In 1996, the Sustainable Fisheries Act (SFA) (Public Law 104–297), was enacted. The SFA amended the Magnuson-Stevens Act and supported further adjustment to the S–K Program to address the current condition of fisheries.

The Magnuson-Stevens Act, as amended by the SFA, requires us to undertake efforts to prevent overfishing, rebuild overfished fisheries, insure conservation, protect essential fish habitats, and realize the full potential of U.S. fishery resources. It further requires that we take into account the importance of fishery resources to fishing communities; provide for the sustained participation of such communities; and, to the extent possible, minimize the adverse economic impacts of conservation and management measures on such communities. The Magnuson-Stevens Act defines a ''fishing community'' as ''a community which is substantially dependent on or substantially engaged in the harvest or processing of fishery resources to meet social and economic needs, and includes fishing vessel owners, operators, and crew and United States fish processors that are based in such community.'' (16 U.S.C. 1802(16)). We have refocused the S–K Program to address the needs of fishing communities as defined by the Magnuson-Stevens Act.

The NOAA Strategic Plan, updated in 1998, has also shaped the S–K Program. The Strategic Plan has three goals under its Environmental Stewardship Mission: Build Sustainable Fisheries (BSF), Recover Protected Species, and Sustain Healthy Coasts. The fisheries research and development mission of the S–K Program directly relates to the BSF goal. There are three BSF objectives in the Strategic Plan:

1. Eliminate and prevent overfishing and overcapitalization.

2. Attain economic sustainability in fishing communities.

3. Develop environmentally and economically sound marine aquaculture.

The goal of the FY 2001 S–K Grant Program will be to address the needs of fishing communities in terms of the preceding BSF objectives. This goal is reflected in the proposed funding priorities. These are similar to the priorities for the FY 2000 S–K Program (64 FR 33050). However, for FY 2001 we propose to limit the scope of the priorities to only federally managed species. Up to now, we have accepted applications that addressed Great Lakes as well as marine species, and species under state management plans. While many worthwhile proposals have been funded for non-federally managed species in the past, the available funds are expected to be inadequate to cover every important and deserving project.

[1] For purposes of this document, a fishery is defined as one or more stocks of fish, including tuna, and shellfish that are identified as a unit based on geographic, scientific, technical, recreational and economic characteristics, and any and all phases of fishing for such stocks. Examples of a fishery are Alaskan groundfish, Pacific whiting, New England whiting, and eastern oysters.

The amount allocated for the S–K Program has declined from over $9.8 million in FY 1996 to $1.9 million for FY 2000. We expect to fund no more than 20 proposals from the FY 2000 program. The Administration's request for the FY 2001 program is also $1.9 million.

In proposing the program scope and priorities, we also considered the availability of other sources of funding for fisheries research and development. For example, we propose to limit the funding priority for aquaculture to only the off-shore marine environment, not land-based or near-shore aquaculture, which are the focus of programs of the U.S. Department of Agriculture and the NOAA National Sea Grant College Program. We would accept only those applications that directly relate to eventually establishing aquaculture in the off-shore environment, or to minimizing barriers to such development.

Electronic Access Addresses

The FY 2000 solicitation and this document requesting comments on the FY 2001 priorities are available on the NMFS S–K Home Page at: www.nmfs.gov/sfweb/skhome.html. The FY 2001 solicitation, when published, will be available at the same site.

The 1998 updated Executive Summary of the NOAA Strategic Plan is available at: www.strategic.noaa.gov/ and the Magnuson-Stevens Act (as amended through October 11, 1996) is available at: www.nmfs.gov/sfa/magact/.

The list of species that are currently under Federal Fishery Management Plans (FMPs) is in the publication, *Status of Fisheries of the United States,* available at: www.nmfs.gov/sfa/reports.html.

If you are unable to access the electronic addresses listed in this section, this information can also be obtained from any of the NMFS offices listed in this document (see ADDRESSES).

Proposed Scope and Funding Priorities

The scope of the FY 2001 S–K Program will be limited to federally managed marine species. (We will not accept applications dealing with Great Lakes species or state-managed species.) The proposed priorities listed are not in any particular order and each is of equal importance.

A. Conservation Engineering

Reduce or eliminate adverse interactions (that affect fishing activity) between fishing operations and nontargeted, protected, or prohibited species, including the inadvertent take, capture, or destruction of such species. These include juvenile or sublegal-sized fish and shellfish, females of certain crabs, fish listed under the Endangered Species Act, marine turtles, seabirds, or marine mammals.

Improve the survivability of fish discarded or intentionally released and of protected species released in fishing operations.

Reduce or eliminate impacts of fishing activity on essential fish habitat that adversely affect the sustainability of the fishery.

B. Optimum Utilization of Harvested Fishery Resources Currently Under Federal Management

Reduce or eliminate factors such as diseases, human health hazards, and quality problems that limit the marketability of federally managed species and their products, in the United States and abroad.

Minimize harvest losses of federally managed species.

Develop usable products from economic discards (whole fish discarded because they are an undesirable species, size, or sex, or parts of fish discarded as not commercially useful) and byproducts of processing of federally managed species.

C. Fishing Community Transition

Help fishing communities to address the socioeconomic effects of overfishing and overcapitalized fisheries through such activities as planning and demonstration projects. Specific areas for these activities could include retraining of fishermen for alternative employment, alternative uses for existing fishing industry infrastructure, and planning for fishing capacity reduction. Activities may complement, but should not duplicate, programs available from other Federal, state, or local agencies.

D. Marine Aquaculture in the Off-Shore Environment

Advance the implementation of marine aquaculture in the off-shore environment (*i.e.*, the EEZ) by addressing technical aspects such as systems engineering, environmental compatibility, and culture technology. Applications must demonstrate that the goal is to support off-shore industry development.

Reduce or eliminate legal and social barriers to off-shore aquaculture development, *e.g.*, legal constraints, use conflicts, exclusionary mapping, and appropriate institutional roles.

Development of FY 2001 S–K Grant Program

We will consider any comments we receive in response to this notice in developing the solicitation notice for the FY 2001 S–K Program. We expect to publish the notice of program in the **Federal Register** around March 15, 2000. Even though we are publishing this request for comments we are not required to solicit applications for the FY 2001 S–K Program.

Catalog of Federal Domestic Assistance

The S–K Grant Program is listed in the ''Catalog of Federal Domestic Assistance'' under number 11.427, Fisheries Development and Utilization Research and Development Grants and Cooperative Agreements Program.

Dated: February 16, 2000.

Penelope D. Dalton,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 00–4474 Filed 2–24–00; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021600C]

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Capacity Committee (Committee) in March, 2000. Recommendations from the committee will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will be held on March 9, 2000, at 10:00 a.m.

ADDRESSES: The meeting will be held at the Holiday Inn, One Newbury Street, Route 1, Peabody, MA 01960; telephone: (978) 535–8238.

Council address: New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950; telephone: (978) 465–0492.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Committee will continue its exploration

of fishing capacity issues. The Committee will review available information that may indicate the status of capacity in New England fisheries. Committee members will prioritize the problems caused by excess capacity in New England fisheries, and will identify possible solutions to identified problems. The Committee will develop alternatives on how to address fishing capacity issues. These suggested alternatives will be referred to the Council and the appropriate species oversight committees for further development as appropriate.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: February 17, 2000.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 00–4477 Filed 2–24–00; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

New Export Visa and Certification Stamps for Certain Textiles and Textile Products Produced or Manufactured in Japan

February 18, 2000.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs providing for the use of a new export visa stamp and a new certification stamp.

EFFECTIVE DATE: April 1, 2000.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

Three of the textile visa issuing bodies for Japan are being merged into one and will use one stamp for goods exported on and after April 1, 2000. That is, the Japan Textiles Exporters' Association, the Japan Textile Products Exporters Association, and the Japan Woolen & Linen Textiles Exporters Association will merge into one organization: the Japan Textiles Exporters Association. Also, a fourth textile visa issuing body, Japan General Merchandise Exporters' Association, will no longer be authorized to issue visas for Japan.

Effective on April 1, 2000, goods exported on and after April 1, 2000 must be accompanied by the textile visa or exempt certification with the ''Japan Textiles Exporters Association'' name on it. The requirement that both of these stamps be in blue ink remains. There will be a grace period from April 1, 2000 through April 30, 2000. Goods exported prior to April 1, 2000, and during the one-month grace period may be allowed entry with either the new ''Japan Textiles Exporters Association'' textile visa or exempt certification, or the old visa with ''The Japan Textiles Exporters' Association'', the ''Japan Textile Products Exporters Association'', the ''Japan Woolen & Linen Textiles Exporters Association'', or the ''Japan General Merchandise Exporters' Association'' name on the visa stamp, or the old exempt certification stamp with ''The Japan Textile Products Exporters Association'' name on it. Goods exported on and after May 1, 2000 must have either a valid visa or exempt certification with the ''Japan Textiles Exporters Association'' name on it.

See 52 FR 4639, published on February 13, 1987; 54 FR 31069, published on July 26, 1989; and 62 FR 10027, published on March 5, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

February 18, 2000.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on February 6, 1987, as amended, by the Chairman, Committee for the Implementation of Textile Agreements. That directive directed you to prohibit entry of certain textiles and textile products, produced or manufactured in Japan for which the Government of Japan has not issued an appropriate visa or exempt certification.

Three of the textile visa issuing bodies for Japan are being merged into one and will use one stamp for goods exported on and after April 1, 2000. That is, the Japan Textiles Exporters' Association, the Japan Textile Products Exporters Association, and the Japan Woolen & Linen Textiles Exporters Association will merge into one organization: the Japan Textiles Exporters Association. Also, a fourth textile visa issuing body, Japan General Merchandise Exporters' Association, will no longer be authorized to issue visas for Japan.

Effective on April 1, 2000, goods exported on and after April 1, 2000 must be accompanied by the textile visa or exempt certification with the ''Japan Textiles Exporters Association'' name on it. The requirement that both of these stamps be in blue ink remains. There will be a grace period from April 1, 2000 through April 30, 2000. Goods exported prior to April 1, 2000, and during the one-month grace period may be allowed entry with either the new ''Japan Textiles Exporters Association'' textile visa or exempt certification, or the old visa with ''The Japan Textiles Exporters' Association'', the ''Japan Textile Products Exporters Association'', the ''Japan Woolen & Linen Textiles Exporters Association'', or the ''Japan General Merchandise Exporters' Association'' name on the visa stamp, or the old exempt certification stamp with ''The Japan Textile Products Exporters Association'' name on it. Goods exported on and after May 1, 2000 must have either a valid visa or exempt certification with the ''Japan Textiles Exporters Association'' name on it.

Shipments entered or withdrawn from warehouse according to this directive which are not accompanied by an appropriate export visa shall be denied entry and a new visa must be obtained.

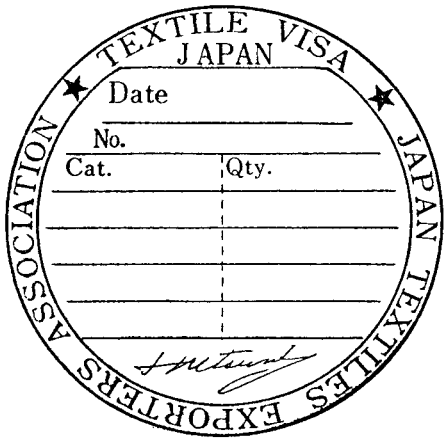
The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

(Japan Textiles Exporters Association)



(Japan Textiles Exporters Association)

[FR Doc. 00–4473 Filed 2–24–00; 8:45 am]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Notice

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11 a.m., Friday, March 3, 2000.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 00–4575 Filed 2–23–00; 12:40 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Notice

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11 a.m., Friday, March 10, 2000.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 00–4576 Filed 2–23–00; 12:40 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Notice

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, March 17, 2000.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 00–4577 Filed 2–23–00; 12:40 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Notice

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11 a.m., Friday, March 24, 2000.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 00–4578 Filed 2–23–00; 12:40 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Notice

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission

TIME AND DATE: 11:00 a.m., Friday, March 31, 2000.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 00–4579 Filed 2–23–00; 12:40 pm]

BILLING CODE 6351–01–M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 00–C0005]

Hasbro, Inc., Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20. Published below is a provisionally-accepted Settlement Agreement Hasbro, Inc., a corporation, containing a civil penalty of $400,000.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by March 13, 2000.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 00–C0005, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: William J. Moore, Trial Attorney, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0626, 1348.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

Dated: February 17, 2000.

Sadye E. Dunn,

Secretary.

In the Matter of Hasbro, Inc., a corporation.

Settlement Agreement and Order

1. This Settlement Agreement, made by and between the staff (''the staff'') of the U.S. Consumer Product Safety Commission (''the Commission'') and Hasbro, Inc., (''Hasbro''), a corporation, in accordance with 16 CFR 1118.20 of the Commission's Procedures for Investigations, Inspections, and Inquiries under the Consumer Product Safety Act (''CPSA''), is a settlement, a complete resolution of the staff allegations set forth below.

I. The Parties

2. The Commission is an independent federal regulatory agency responsible for the enforcement of the Consumer Product Safety Act, 15 U.S.C. 2051–2084.

3. Hasbro is a corporation organized and existing under the laws of the State of Rhode Island. Its principal offices are located at 1027 Newport Avenue, Pawtucket, Rhode Island 02861. Playskool is a division of Hasbro.

II. Staff Allegations

4. Hasbro manufactured the Playskool ''Fold 'n' Travel'' Infant Carrier (Infant Carrier) and sold and distributed into United States commerce approximately 38,500 units beginning in April 1991. Hasbro is, therefore, a manufacturer and distributor of a consumer product in U.S. commerce pursuant to 15 U.S.C. 2052(a)(1), (4), (5) and (6).

5. The Infant Carrier incorporated a handle-locking system that failed to stay locked during use, allowing the child to fall out of the carrier and onto the surface below.

6. Hasbro began to receive injury claims and complaints alleging handle-lock failure. Between May 1992 and December 1995, Hasbro learned of nine incidents of handle failure resulting in seven skull fractures and one baby falling on her face. Hasbro learned of three more such incidents in 1996.

7. On July 19, 1996, Hasbro filed a telephone report with the Commission. The firm voluntarily conducted a recall of the Infant Carrier soon thereafter.

8. Hasbro obtained information which reasonably supported the conclusion that the Playskool Fold 'n' Travel Infant Carrier contained defects which could create a substantial product hazard but failed to report to the Commission in a timely manner as required by section 15(b) of the CPSA, 15 U.S.C. 2064(b).

III. Response of HASBRO

9. Hasbro denies each and every staff allegation set forth in paragraphs 4, 5, 6 and 8, above; it further denies that the Playskool Fold 'n' Travel Infant Carrier contains any defect which could create a substantial product hazard pursuant to section 15(a) of the CPSA, 15 U.S.C. 2064(a), and further denies that it violated the reporting requirements of section 15(b) of the CPSA, 15 U.S.C. 2064(b) or 16 CFR part 1115.

10. In July, 1996 information concerning the Infant Carrier became apparent to Hasbro. Promptly thereafter, Hasbro, of its own initiative, filed a report under Section 15 of the CPSA and worked cooperatively with the staff to conduct a comprehensive recall plan under the Commission's Fast Track program.

11. Hasbro enters this Settlement Agreement and Order for settlement purposes only, to avoid incurring additional legal costs and expenses.

IV. Agreement of the Parties

12. The Commission has jurisdiction over this matter and over Hasbro under the Consumer Product Safety Act (CPSA), 15 U.S.C. 2051 *et seq.*

13. Hasbro knowingly, voluntarily and completely waives any rights it may have in the above captioned case (1) to the issuance of a Complaint in this matter, (2) to an administrative or judicial hearing with respect to the staff allegations cited herein, (3) to judicial review or other challenge or contest of the validity of the Commission's Order, (4) to a determination by the Commission as to whether a violation of section 15(b) of the CPSA, 15 U.S.C. 2064(b), has occurred, and (5) to a statement of findings of fact and conclusions of law with regard to the staff allegations.

14. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this Settlement Agreement and Order shall be placed on the public record and shall be published in the **Federal Register** in accordance with 16 CFR 1118.20.

15. The Settlement Agreement and Order becomes effective upon final acceptance by the Commission and its service upon Hasbro. Hasbro shall pay a civil penalty in the amount of four hundred thousand and no/dollars ($400,000.00) within 10 calendar days of receiving service of such final Settlement Agreement and Order.

16. This Settlement Agreement and Order is not deemed or construed as an admission by Hasbro (a) of any liability or wrongdoing by Hasbro; (b) that Hasbro violated any law or regulation; (c) that the Infant Carrier is defective or creates a substantial product hazard, or is unreasonably dangerous; (d) that the Infant Carrier or Hasbro has caused any injuries; (e) of the truth of any claims or other matters alleged or otherwise stated by the Commission or any other person either against Hasbro or with respect to the Infant Carrier. Nothing contained in this Settlement Agreement and Order precludes Hasbro from raising any defenses in any future litigation not arising out of the terms of this Settlement Agreement and Order.

17. Upon final acceptance of this Settlement Agreement by the Commission, the issuance of the Order, and the full and timely payment by Hasbro to the United States Treasury a civil penalty in the amount of four hundred thousand dollars ($400,000.00), the Commission specifically waives its right to initiate, either by referral to the Department of Justice or bringing in its own name, any action for civil or criminal penalties relating to any of the events that gave rise to the staff's allegations in paragraphs four through eight, supra, against (a) Hasbro; (b) any of Hasbro's current or former subsidiaries, affiliates, divisions or related entities; (c) any shareholder, director, officer, employee, agent or attorney of any entity referenced in (a) or (b); and (d) any successor, heir, or assign of the persons described in (a), (b) or (c) above.

18. For purposes of Section 6(b) of the CPSA, 15 U.S.C. 2055(b), upon final acceptance by the Commission, the parties agree that the Commission may publicize the terms of the Settlement Agreement and Order.

19. Hasbro agrees to the entry of the attached Order, which is incorporated herein by reference, and agrees to be bound by its terms.

20. The Commission's Order in this matter is issued under the provisions of the CPSA, 15 U.S.C. 2051 *et seq.,* and a violation of this Order may subject Hasbro to appropriate legal action.

21. This Settlement Agreement and Order is binding upon and shall inure to the benefit of Hasbro and the assigns or successors of Hasbro.

22. Agreements, understandings, representations, or interpretations made outside this Settlement Agreement and Order may not be used to vary or to contradict its terms.

Hasbro, Inc.,
Dated: January 25, 2000.

By: Alfred J. Verrecchia,

Executive Vice President.

The U.S. Consumer Product Safety Commission.

Alan H. Schoem,

Assistant Executive Director, Office of Compliance.

Eric L. Stone,

Director, Legal Division, Office of Compliance.

Dated: January 11, 2000.

By: William J. Moore, Jr.,

Attorney, Legal Division, Office of Compliance.

In the Matter of Hasbro, Inc. a corporation.

Order

Upon consideration of the Settlement Agreement entered into between Hasbro, Inc., a corporation, and the staff of the U.S. Consumer Product Safety Commission; and the Commission having jurisdiction over the subject matter and Hasbro, Inc., and it appearing that the Settlement Agreement and Order is in the public interest, it is

Ordered, that the Settlement Agreement be, and hereby is, accepted, and it is

Further Ordered, that, upon final acceptance of the Settlement Agreement and Order, Hasbro, Inc. shall pay the Commission a civil penalty in the amount of four hundred thousand and no/100 dollars, ($400,000.000) within ten (10) calendar days after service of this Final Order upon Hasbro, Inc.

Provisionally accepted and Provisional Order issued on the 17th day of February, 2000.

By Order of the Commission.

Sadye E. Dunn,

Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. 00–4383 Filed 2–24–00; 8:45 am]

BILLING CODE 6355–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Sunshine Act Notice

The Board of Directors of the Corporation for National and Community Service gives notice of the following meeting:

DATE AND TIME: Friday, March 3, 2000, 9:30–11:00 a.m.

PLACE: Golden Gate Club, Building 135 Fisher Loop, The Presidio of San Francisco, San Francisco, CA 94129.

STATUS: Open.

MATTERS TO BE CONSIDERED:

I. Chair's Opening Remarks
II. Approval of Minutes of September 1999 Meeting
III. Status Report by Chief Executive Officer
IV. Committee Reports
  A. Executive Committee
  B. Planning and Evaluation Committee Items for Board Action: Annual Plan
  C. Management, Budget, and Governance Committee
  D. Communications Committee
V. National Service Reports
  A. Technology and the Digital Divide
  B. Service-Learning from District and School Perspective
VI. Future Board Meeting Dates
VII. Public Comment
VIII. Adjournment

ACCOMMODATIONS: Anyone who needs an interpreter or other accommodation should notify the Corporation's contact person.

CONTACT PERSON FOR FURTHER INFORMATION: Rhonda Taylor, Associate Director of Special Projects and Initiatives, Corporation for National Service, 8th Floor, Room 8619, 1201 New York Avenue NW., Washington, DC 20525. Phone (202) 606–5000 ext. 282. Fax (202) 565–2794. TDD: (202) 565–2799.

Dated: February 23, 2000.

Thomasenia P. Duncan,

General Counsel, Corporation for National and Community Service.

[FR Doc. 00–4594 Filed 2–23–00; 12:19 pm]

BILLING CODE 6050–28–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Proposed Collection; Comment Request

AGENCY: Department of Defense Medical Examination Review Board, DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of Defense Medical Examination Review Board announces the proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms or information technology.

DATES: Consideration will be given to all comments received by April 25, 2000.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to Department of Defense Medical Examination Review Board (DoDMERB), 8034 Edgerton Drive, Suite 132, USAF Academy, CO 80840–2200, Attention: CMSgt Darrell W. Cornett.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call DoDMERB at (719) 333–7896.

Title and Associated Forms: DoDMERB Report of Medical Examination, DD Forms 2351, 2369, 2370, 2372, 2374, 2375, 2378, 2379, 2380, 2381, 2382, 2382, 2480, 2489, 2492, and 2632.

Needs and Uses: The information collection requirement is necessary to determine the medical qualification of applicants to the five Service academies, the four-year Reserve Officer Training Corps College Scholarship Program, Uniformed Services University of the Health Sciences, and the Army, Navy, and Air Force Scholarship Programs. The collection of medical history of each applicant is to determine if applicants meet medical standards outlined in Department of Defense Directive 6130.3, Physical Standards for Appointment, Enlistment and Induction, dated 2 May 1994.

Affected Public: Individuals applying for entrance into one of the programs described above.

Annual Burden Hours: 19,000.

Number of Respondents: 19,000.

Responses Per Respondent: 1.

Average Burden Per Response: 60 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents are individuals who are interested in applying to attend one of the five Service academies, the four-year Reserve Officer Training Corps Scholarship Program, Uniformed Services University of the Health Sciences, or Army, Navy, and Air Force Scholarship Programs. The completed form(s) is processed through medical reviewers representing their respective services to determine a medical

qualification status. Associated forms may or may not be required depending on the medical information contained in the medical examination. If the medical examination and associated forms, if necessary, are not accomplished, individuals reviewing the medical examination cannot be readily assured of the medical qualifications of the individual. Without this process the individual applying to any of these programs could not have a medical qualification determination. It is essential that individual's have a medical qualification determination to ensure compliance with the physical standards established for each respective military service program.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 00–4392 Filed 2–24–00; 8:45 am]

BILLING CODE 5001–05–U

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Invention for Licensing; Government-Owned Invention

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The invention listed below is assigned to the United States Government as represented by the Secretary of the Navy and is available for licensing by the Department of the Navy. U.S. Patent Application Ser. No. 09/072,283 entitled ''Materials, Method, and Apparatus for Detecting and Monitoring of Chemical Species,'' Navy Case No. 78539.

ADDRESSES: Requests for copies of the patent application cited should be directed to the Naval Research Laboratory, Code 3008.2, 4555 Overlook Avenue, SW, Washington, DC 20375–5320, and must include the Navy Case Number.

FOR FURTHER INFORMATION CONTACT: Ms. Catherine M. Cotell, Ph.D., Head, Technology Transfer Office, NRL Code 1004, 5320, telephone (202) 767–7230.

Authority: 35 U.S.C. 207, 37 CFR Part 404.

Dated: February 17, 2000.

J.L. Roth,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 00–4501 Filed 2–24–00; 8:45 am]

BILLING CODE 3810–FF–P

DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold an informal conference followed by a public hearing on Tuesday, March 7, 2000. The hearing will be part of the Commission's regular business meeting. Both the conference and business meeting are open to the public and will be held at the City of Reading City Hall, 815 Washington Street, Reading, PA.

The conference among the Commissioners and staff will begin at 10 a.m. and will include updates on the comprehensive planning process, the Pennsylvania soils GIS project, and the PCB strategy for the Delaware Estuary, respectively; a status report on the Delaware River flow needs study; discussion of the proposal for a Flood Advisory Committee; a status report on the possibility of elevating the road at F.E. Walter Reservoir; an update on the conservation storage agreement with the U.S. Army Corps of Engineers (U.S. ACE) for F.E. Walter Reservoir; a report on the February 16, 2000 meeting between DRBC and the U.S. ACE regarding project funding; and discussion of a proposed meeting among the commissioners to address restoration of federal funding.

In addition to the dockets listed below, which are scheduled for public hearing, the Commission will address the following at its 1 p.m. business meeting: minutes of the January 26, 2000 business meeting; announcements; report on Basin hydrologic conditions; reports by the Executive Director and General Counsel; and public dialogue. The Commission also will consider resolutions to: expand the Delaware Estuary Regional Information Management Service (''RIMS'') and establish a Basinwide Information Management Advisory Committee; re-authorize the Toxics Advisory Committee; and establish a Flood Advisory Committee.

The dockets scheduled for public hearing are as follows:

1. Hilltown Township Water & Sewer Authority D–92–20 CP RENEWAL

A renewal of the ground water withdrawal project to supply up to 16.02 million gallons (mg)/30 days of water to the applicant's public water distribution system from Wells Nos. 1, 2 and 5. Commission approval on November 4, 1992 was extended to ten years and will expire unless renewed. The applicant requests that the total withdrawal from all wells be increased from 10.02 mg/30 days to 16 mg/30 days. The project is located in Hilltown Township, Bucks County in the Southeastern Pennsylvania Ground Water Protected Area.

2. Wild Oaks Country Club D–98–2

A ground water withdrawal project to supply up to 8.5 mg/30 days of water from existing Wells Nos. 1, 2 and 3 to two existing holding ponds serving the applicant's golf course irrigation system and country club, and to limit the combined total withdrawal from all wells and holding ponds to 8.5 mg/30 days. The project is located in Quinton Township, Salem County, New Jersey.

3. Northeastern Power Company D–98–39

A project to increase the withdrawal from the Silverbrook Mine Pool from 3.4 mg/30 days to 6.0 mg/30 days to continue to serve the applicant's existing 50 megawatt cogeneration facility located just east of U.S. Route 309 in Kline Township, Schuylkill County, Pennsylvania.

4. Joseph Wick Nurseries, Ltd. D–99–15

A ground water withdrawal project to supply up to 56.04 mg/30 days of water to the applicant's irrigation system from the new Wright Farm Well and three existing wells, and to reduce the existing withdrawal limit of 71.4 mg/30 days from all wells to 56.04 mg/30 days. The project is located in Kent County, Delaware.

5. New Hanover Township D–99–40 CP

A project to construct a new 0.825 million gallons per day (mgd) tertiary sewage treatment plant (STP) to replace the applicant's existing 0.412 mgd plant and poorly performing spray irrigation system. Located just north of Swamp Creek approximately one-half mile east of the Fagleysville Road Bridge in New Hanover Township, Montgomery County, Pennsylvania, the STP will continue to serve a portion of New Hanover Township and discharge to Swamp Creek.

6. Pennsylvania Power & Light, Inc. (PP&L)/PP&L Global, Inc. and Lower Mount Bethel Energy, LLC D–99–54

A project to withdraw up to 4.87 mgd of Delaware River water, via the existing Units 3 and 4 intake operated by PP&L, Inc., to supply two proposed natural gas-fired power generators operated by a subsidiary of PP&L Global, Inc., Lower Mount Bethel Energy, LLC. The generators will be located on a 25-acre site adjacent to the northwest side of PP&L Inc.'s Martins Creek steam electric

station in Lower Mount Bethel Township, Northampton County, Pennsylvania and will generate 600 megawatts of power. The project withdrawal will not exceed PP&L's approved withdrawal of 762 mg/30 days at its Units 3 and 4 intake. Approximately 4.1 mgd will be consumed and 0.76 mgd conveyed to the existing PP&L, Inc. industrial wastewater treatment facility for discharge to the Delaware River in Water Quality Zone 1D.

7. Chalfont-New Britain Township Joint Sewer Authority D–99–63 CP

An application to rerate the applicant's existing 5.0 mgd STP to 6.0 mgd. The STP will continue to provide advanced secondary treatment via a contact-stabilization plant operating in parallel with an anaerobic/aerobic treatment system in addition to minor modifications to allow additional storm-related inflow. The STP will continue to serve Chalfont and New Britain Boroughs and portions of New Britain, Plumstead, Buckingham and Doylestown Townships, all in Bucks County, Pennsylvania. Located south of Tamanend Avenue and east of Upper State Road in Doylestown Township, the STP will continue to discharge to Neshaminy Creek, a tributary of the Delaware River.

8. Bucks County Water & Sewer Authority D–99–70 CP

An application to rerate the applicant's existing Green Street STP from an 0.7 mgd average monthly flow to an 0.85 mgd maximum monthly flow to treat wet weather inflow. The STP is located on Green Street near the State Route 202 bypass in both Doylestown Borough and Doylestown Township, Bucks County, Pennsylvania and will continue to provide advanced secondary treatment for Doylestown Borough and Doylestown Township. The STP will continue to discharge to Country Club Run, a tributary of Neshaminy Creek.

9. Fieldstone Golf Club, L.P. D–99–74

A ground water withdrawal project to supply up to 6 mg/30 days of water to the applicant's golf course irrigation system from new Wells Nos. 1, 2 and 3, and to limit the withdrawal from all wells to 6 mg/30 days. The project is located near the Town of Greenville, New Castle County, Delaware.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact Thomas L. Brand at (609) 883–9500 ext. 221 concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary at (609) 883–9500 ext. 203 prior to the hearing.

Individuals in need of an accommodation as provided for in the Americans With Disabilities Act who wish to attend the hearing should contact the Secretary, Pamela M. Bush, at (609) 883–9500 ext. 203 or the New Jersey Relay Service at 1–800–852–7899 (TTY) to discuss how the Commission can accommodate your needs.

Dated: February 14, 2000.

Pamela M. Bush,

Secretary.

[FR Doc. 00–4391 Filed 2–24–00; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 25, 2000.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) title; (3) summary of the collection; (4) description of the need for, and proposed use of, the information; (5) respondents and frequency of collection; and (6) reporting and/or recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: February 18, 2000.

William Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Title: Projects with Industry.

Frequency: Annually.

Affected Public: Individuals or households, Not-for-profit institutions, State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 350 Burden Hours: 14,000.

Abstract: The Rehabilitation Services Administration (RSA) requests OMB approval to extend currently approved data collection form for use through December 31, 2000.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO__IMG__Issues@ed.gov or faxed to 202–708–9346.

Please specify the complete title of the information collection when making your request.

Written comments or questions regarding burden and/or the collection activity requirements should be directed to CAREY at (202) 708–6287. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 00–4408 Filed 2–24–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before March 27, 2000.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) title; (3) summary of the collection; (4) description of the need for, and proposed use of, the information; (5) respondents and frequency of collection; and (6) reporting and/or recordkeeping burden. OMB invites public comment.

Dated: February 18, 2000.

William Burrow,

Leader Information Management Group, Office of the Chief Information Officer.

Office of Vocational and Adult Education

Type of Review: Revision of a currently approved collection.

Title: Carl D. Perkins Vocational and Technical Education Act (PL 105–332)—State Plan (SC).

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs (primary).

Reporting and Recordkeeping Hour Burden: Responses: 56.

Burden Hours: 9296.

Abstract: PL 105–332 requires eligible State agencies to submit a 5-year State plan, with annual revisions as the agency deems necessary, in order to receive Federal funds. Program staff review the plans for compliance and quality.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO__IMG__mmat;ed.gov or faxed to 202–708–9346.

Please specify the complete title of the information collection when making your request.

Questions regarding burden and/or the collection activity requirements should be directed to CAREY at (202) 708–6287. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 00–4407 Filed 2–24–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before March 27, 2000.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: February 17, 2000.

William Burrow, Leader

Information Management Group, Office of the Chief Information Officer.

Office of Vocational and Adult Education

Type of Review: New.

Title: National Survey to Determine the Need for Special Education Services

Frequency: One time.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 689 *Burden Hours:* 669.

Abstract: The Office of Correctional Education is conducting a study to determine the number of incarcerated juvenile and youthful offenders with disabilities. This study is being undertaken by the American Institutes for Research.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO__IMG__Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Questions regarding burden and/or the collection activity requirements should be directed to Sheila Carey at (202) 708–6287 or via her internet address Sheila__Carey@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 00–4409 Filed 2–24–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Record of Decision for the Department of Energy's Waste Management Program: Treatment and Disposal of Low-Level Waste and Mixed Low-Level Waste; Amendment of the Record of Decision for the Nevada Test Site

AGENCY: Department of Energy.

ACTION: Record of decision.

SUMMARY: For the management of low-level waste (LLW) analyzed in the Final Waste Management Programmatic Environmental Impact Statement (WM PEIS), the Department of Energy (DOE) has decided to perform minimum treatment at all sites and continue, to the extent practicable, disposal of on-site LLW at the Idaho National Engineering and Environmental Laboratory (INEEL), the Los Alamos National Laboratory (LANL) in New Mexico, the Oak Ridge Reservation (ORR) in Tennessee, and the Savannah River Site (SRS) in South Carolina. In addition, the Department has decided to make the Hanford Site in Washington and the Nevada Test Site (NTS) available to all DOE sites for LLW disposal. INEEL and SRS also will continue to dispose of LLW generated by the Naval Nuclear Propulsion Program. For the management of mixed low-level waste (MLLW) analyzed in the WM PEIS, the Department has decided to treat MLLW at the Hanford Site, INEEL, ORR and SRS, and to dispose of MLLW at the Hanford Site and NTS. The Department also has decided to amend its 1996 ROD for the NTS Environmental Impact Statement, to implement the Expanded Use Alternative for waste management activities at NTS.

The Department acknowledges the impacts this decision will have in the States of Nevada and Washington, which will continue their role in supporting the nation's goal to clean up the nuclear weapons complex, much as they supported the nation's nuclear weapons program. This decision enables the Department to integrate waste management activities among sites to promote expeditious, compliant, and cost effective cleanup.

FOR FURTHER INFORMATION CONTACT: Copies of the Final WM PEIS and this Record of Decision (ROD) are available in DOE public reading rooms and selected libraries located across the United States; the WM PEIS also is available on the internet at *www.osti.gov/bridge* (select ''Advanced Search,'' go to the box labeled ''Select Field'' and scroll down to ''Identifying Number,'' then key in ''DOE/EIS–0200–F''). A list of the public reading rooms can be accessed on the Internet at *http://www.em.doe.gov* under ''Publications'' and then ''List of Publications.'' To request copies of the WM PEIS, this ROD, or a list of the reading rooms and public libraries, contact: The Center for Environmental Management Information, P.O. Box 23769, Washington, DC 20026–3769; telephone 1–800–736–3282 (in Washington, DC, 202–863–5084).

For information on the WM PEIS or this ROD, contact: Ms. Karen Guevara, WM PEIS Program Manager, U.S. Department of Energy, Office of Environmental Management, 19901 Germantown Road, Germantown, MD 20874; telephone 301–903–4981.

For general information on DOE's National Environmental Policy Act (NEPA) process, contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, Office of Environment, Safety and Health, 1000 Independence Avenue, SW, Washington, DC 20585–0119; telephone 202–586–4600, or leave a message at 1–800–472–2756.

SUPPLEMENTARY INFORMATION:

Background

The WM PEIS (DOE/EIS–0200F), issued in May 1997, studied the potential nation-wide impacts of managing four types of radioactive waste (LLW, MLLW, transuranic waste, and high-level waste) and non-wastewater hazardous waste generated by defense and research activities at 54 sites around the United States. The WM PEIS analyzes the potential environmental impacts of broad alternatives for DOE's waste management program, and was designed to provide part of the basis for DOE decisions on programmatic configurations of sites for waste management activities. WM PEIS analyses include evaluating potential impacts associated with transporting wastes by truck and by rail.

Three RODs have been issued under the WM PEIS. These are the transuranic waste ROD (63 FR 3629, January 23, 1998), the non-wastewater hazardous waste ROD (63 FR 41810, August 5, 1998), and the high-level waste ROD (64 FR 46661, August 26, 1999).

This ROD applies only to the treatment and disposal of LLW and MLLW as analyzed in the WM PEIS.[1] DOE prepared this ROD in accordance with NEPA (42 U.S.C. § 4321 et seq.), the Council on Environmental Quality's regulations for implementing NEPA (40 CFR Parts 1500–1508), and DOE's NEPA Implementing Procedures (10 CFR Part 1021).

Definitions of LLW and MLLW

Low-Level Waste is all radioactive waste not classified as high-level waste, transuranic waste, spent nuclear fuel, or by-product tailings containing uranium or thorium from processed ore (as defined in Section 11(e)2 of the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.]), and not classified as hazardous waste under the Resource Conservation and Recovery Act (RCRA). Test specimens of fissionable material irradiated for research and development only, and not for the production of power or plutonium, may be classified as LLW provided that the concentration of transuranics is less than 100 nanocuries per gram. Since the World War II Manhattan Project, DOE and its predecessor agencies have generated LLW from a variety of activities, including weapons production, nuclear reactor operations, environmental restoration activities, and research.

Mixed Low-Level Waste is managed according to requirements established under RCRA for hazardous waste and the Atomic Energy Act of 1954 for its radioactive components. The hazardous

[1] After the Final WM PEIS was issued in May 1997, DOE issued ''Accelerating Cleanup: Paths to Closure.'' In that document, DOE provided estimates of waste volumes that would result from the planned operations and accelerated cleanup processes at DOE sites. Because some of the estimates differed from those provided in the WM PEIS, DOE examined the LLW and MLLW volumes to determine if the updated volume estimates constitute significant new information relevant to environmental concerns that would warrant preparation of a supplemental EIS or a new PEIS. This examination extended only to LLW and MLLW volumes, because the transuranic, hazardous and high-level waste volume estimates did not change from those analyzed in the Final WM PEIS.

The treatment and disposal site locations were chosen based on factors that would not be affected by the changed waste volume estimates. Waste volume considerations could have influenced the choice of treatment and disposal sites only if the estimated volume of LLW, the estimated volume of MLLW, or the expected nationwide distribution of waste had changed dramatically, none of which occurred. Therefore, DOE has concluded that its decisionmaking process for LLW and MLLW can proceed without preparing a supplemental EIS or a new PEIS.

component of MLLW is subject either to Environmental Protection Agency regulations promulgated under RCRA or State hazardous waste regulations promulgated under RCRA. DOE has generated MLLW as a result of research, development, production of nuclear weapons, and environmental restoration activities.

Alternatives Considered for Treatment and Disposal of LLW and MLLW

In the WM PEIS, the term ''alternative'' generally refers to a nationwide configuration of sites for treating, storing, or disposing of a waste type. The WM PEIS analyzed No Action, Decentralized, Regionalized, and Centralized Alternatives for LLW and MLLW treatment and disposal. As shown in Tables 3.4–2 and 3.6–2 for LLW, and Tables 3.4–1 and 3.6–1 for MLLW, the number of sites considered for treatment and disposal of LLW and MLLW under the action alternatives is greatest for the Decentralized Alternatives and fewest for the Centralized Alternatives. The WM PEIS action alternatives for LLW and MLLW did not include storage alternatives; LLW and MLLW will be stored at the site where they are generated until they are treated and disposed of.

For LLW treatment, in addition to these categories of alternatives, the WM PEIS evaluated two treatment approaches: minimum treatment and volume reduction. Minimum treatment is defined as the least amount of LLW treatment required to allow either on-site disposal or transportation to another site for disposal. Minimum LLW treatment includes basic handling, packaging, and solidification of liquid and fine particulate LLW. Therefore, in all LLW alternatives, all sites with LLW perform at least minimum treatment on all of their LLW, regardless of whether the waste is further treated using volume reduction methods and regardless of whether the waste is to be disposed of on-site or at another site. For volume reduction, the WM PEIS analyzed thermal treatment (e.g., incineration), compaction, and size reduction (e.g., shredding) to decrease the volume of LLW needing disposal.

For MLLW treatment, the WM PEIS analyzed thermal treatment (e.g., incineration), separations processes, evaporation, and solidification (e.g., grouting) to meet RCRA land disposal restrictions.

The following summarizes the alternatives that DOE analyzed for treatment and disposal of LLW and MLLW.

No Action Alternative. For each waste type, the WM PEIS analyzed a single ''no action'' alternative involving the use of currently existing or planned waste management facilities at DOE sites. Although the no action (or ''status quo'') alternative may not comply with applicable laws and regulations, analysis of such an alternative is required under NEPA regulations, and provides an environmental baseline against which the impacts of other alternatives can be compared. Under the No Action Alternative for LLW, LLW would be treated using existing facilities and then disposed of at the six existing DOE LLW disposal sites as follows: INEEL, LANL, and ORR would each dispose of its own LLW; and the Hanford Site, NTS, and SRS would each dispose of its own waste and waste from specific DOE sites. Under the No Action Alternative for MLLW, no new facilities would be constructed, not all MLLW would be treated to meet RCRA land disposal restrictions, and MLLW would be placed in indefinite storage.

Decentralized Alternative. For each waste type, the WM PEIS analyzed a single decentralized alternative for treating and disposing of waste at a large number (16) of DOE sites. Unlike the ''no action'' alternative, a decentralized alternative may require the siting, construction and operation of new facilities or the modification of existing facilities. Under the LLW Decentralized Alternative, as shown in Table 7.3–2, LLW would undergo only minimum treatment at all DOE waste generating sites and would be disposed of at 16 DOE sites. Under the MLLW Decentralized Alternative, as shown in Table 6.3–2, MLLW would be treated on-site at DOE waste generating sites and would be disposed of at 16 DOE sites.

Regionalized Alternatives. For each waste type, the WM PEIS analyzed several alternatives to consolidate waste management activities by transporting wastes to fewer sites for treatment or disposal. For LLW, the WM PEIS analyzed seven Regionalized Alternatives, with volume reduction treatment at 11 or fewer DOE sites, followed by disposal at up to 12 sites. For MLLW, the WM PEIS analyzed four Regionalized Alternatives, ranging from treatment at 37 DOE sites to treatment at only four sites, followed by disposal at 12, six or a single DOE site.

Centralized Alternatives. For each waste type, the WM PEIS analyzed one or more alternatives for consolidating waste management activities at a small number of centralized sites for treatment or disposal. For LLW, the WM PEIS analyzed five Centralized Alternatives, with volume reduction treatment at seven sites or at a single site, followed by disposal at a single site. For MLLW, the WM PEIS analyzed one Centralized Alternative, with MLLW treatment and disposal occurring at a single site.

Preferred Alternatives. The WM PEIS identified preferred alternatives using criteria established (after considering public comments) in Section 1.7.3 of the Final WM PEIS. For LLW treatment, DOE identified its preferred alternative to be minimum treatment of LLW at all sites that generate LLW (the Decentralized Alternative). For MLLW treatment, DOE identified its preferred alternative to be a combination of regionalized and decentralized alternatives, consisting of treatment at the Hanford Site, INEEL, ORR and SRS, or on-site treatment, as would be consistent with Site Treatment Plans issued under the Federal Facility Compliance Act, Pub. L. 102–386.

The Final WM PEIS also identified DOE's preferred alternatives for LLW and MLLW disposal as regional disposal at two or three disposal sites, to be selected from the six candidate sites at which DOE currently disposes of LLW or MLLW: the Hanford Site, INEEL, LANL, NTS, ORR, and SRS. On December 10, 1999, DOE published (64 FR 69241) a Notice of Preferred Alternatives announcing its preferred LLW and MLLW disposal sites. For LLW disposal, DOE identified its preferred alternative to be disposal at the Hanford Site and NTS. In addition, to the extent practicable and consistent with current practice, DOE would continue disposal of on-site LLW at INEEL, LANL, ORR, and SRS. INEEL and SRS also would continue to dispose of LLW generated by the Naval Nuclear Propulsion Program. This preferred alternative for LLW disposal is a combination of the preferred LLW disposal alternative identified in the Final WM PEIS (i.e., regionalized disposal at two sites—the Hanford Site and NTS) and the Decentralized Alternative described in the Final WM PEIS (disposal of on-site generated LLW at four sites—INEEL, LANL, ORR, and SRS). For MLLW disposal, DOE identified its preferred alternative to be disposal at the Hanford Site and NTS (a Regionalized Alternative).

Public Comments on Preferred Alternatives and DOE Responses

In response to the December 1999 Notice, the Department received eight letters as discussed below.

The Governor of Nevada, in the context of addressing concerns about DOE's activities regarding Yucca Mountain (which is outside the scope of the WM PEIS), urged the Secretary of Energy ''to continue to assist the state in

assuring that adequate health, safety, and environmental safeguards are in place to ensure the safety of Nevada's citizens upon receipt of the additional low-level and mixed waste at the NTS.'' The ''Mitigation of Impacts from Treatment and Disposal of LLW and MLLW'' section of this ROD includes several commitments that address this request, including: (1) Assistance to States, Tribal and local governments, and other public entities concerning human health, environmental, and economic impacts; (2) stringent application of administrative controls, including disposal facility waste acceptance criteria and stable waste form requirements; (3) implementation of transportation planning and control programs to reduce transportation risk; and (4) rigorous quality assurance programs for the characterization of LLW and MLLW. Previously, the Department entered into a Memorandum of Agreement with the State of Nevada (July 1998) to provide State regulators with greater involvement in waste disposal matters.

In a separate letter, the Nevada Department of Transportation indicated concern with vehicle configuration and routing as it would relate to safe operations on various highway systems. While the WM PEIS evaluated potential impacts associated with transporting wastes by truck and by rail (as noted in the ''Background'' section of this ROD), this ROD does not make transportation routing or mode decisions. In implementing this decision, DOE will comply with all applicable Department of Transportation regulations. In addition, as mentioned above, a later section of this ROD lists mitigation measures DOE will continue during LLW and MLLW treatment and disposal; two of these address the Nevada Department of Transportation's concern: (1) Training to ensure DOE and non-DOE emergency response personnel are knowledgeable of emergency response procedures; and (2) implementation of transportation planning and control programs to reduce transportation risk.

The Hanford Advisory Board (one of several site-specific advisory boards chartered under the Federal Advisory Committee Act) advised that before off-site LLW and MLLW are imported into the Hanford Site, ''there should be adequate opportunity for public education and involvement.'' The Department believes it has provided adequate opportunity for public education and involvement during the process of reaching the decisions presented in this ROD. The Department provided a 150-day public comment period for the WM PEIS and received more than 1,500 comments. The Final WM PEIS responded to these, including comments of the Hanford Advisory Board. In addition, since publication of the Final WM PEIS, the Department has continued to share information and discuss the pending decisions in various public forums. The pending decision was among the topics discussed in the Intersite Discussions convened by the League of Women Voters in the Summer of 1998 and a LLW Seminar sponsored by the Nevada Citizens' Advisory Board in August 1998, both of which were attended by members of the Hanford Advisory Board. Further, the Department issued a September 1998 Information Package on Pending LLW and MLLW Disposal Decisions, which was provided to all site-specific advisory boards (including the Hanford Advisory Board), and others.

In a separate letter, the Hanford Advisory Board also advised that no off-site wastes be disposed of in LLW burial grounds on the Hanford Site until regulators determine whether waste previously disposed of there has been accurately characterized as LLW and not MLLW. This site-specific implementation issue is beyond the scope of the WM PEIS. However, DOE will consult with regulators to determine an appropriate course of action.

An individual from Washington State stated that DOE was in violation of NEPA when it named preferred disposal sites because the May 1997 WM PEIS only covered LLW and MLLW *treatment.* In fact, however, the WM PEIS analyzed both treatment *and* disposal of LLW and MLLW.

The State of Arkansas Department of Finance and Administration noted its support of the Department's stated preferences for LLW and MLLW disposal and offered no further comments. The State of Missouri Office of Administration stated that the agency had completed its review and had no comments or recommendations to offer. A letter from the South Carolina Department of Natural Resources provided no comments or recommendations on the December 1999 notice.

Upon consideration of comments received during the WM PEIS public comment period and, as detailed above, on the December 1999 notice, the Department has reached the following decisions for LLW and MLLW treatment and disposal.

LLW Treatment

Tables 7.16–1 and 7.16–2 in the Final WM PEIS compare alternatives with respect to the treatment of LLW. In general, the tables present estimates of potential worker and off-site population fatalities, the ability of sites to meet air and groundwater quality standards, and costs for the various LLW alternatives analyzed in the WM PEIS. Chapter 7 also discusses other types of LLW impacts, including cultural resource and environmental justice concerns. All of the environmental factors were considered in identifying environmentally preferable alternatives and in making the decision stated below.

Environmentally Preferable Alternatives: For LLW treatment, seven of the alternatives analyzed in the WM PEIS (the Decentralized, Regionalized 1, 3, 6 and 7, and Centralized 1 and 2 Alternatives) would result in similarly low environmental impacts and are the environmentally preferable LLW treatment alternatives. These alternatives involve only minimum treatment (as defined earlier), and thus would result in the fewest potential worker fatalities. No alternative would present environmental justice concerns. None of these alternatives would result in off-site transportation risks for treatment, because each site would treat its own waste on-site.

Decision: The Department has decided to implement the Preferred Alternative specified in the Final WM PEIS for the treatment of LLW. Under this decision, each site will perform minimum treatment on its LLW, although each site may perform additional treatment as would be useful to decrease overall costs. This decision does not preclude DOE's use of commercial treatment facilities, consistent with current DOE orders and policy.

Basis for Decision: DOE has decided to pursue minimum treatment as its overall strategy for LLW treatment because volume reduction would not offer sufficient benefits to offset the increase in human health effects and costs it would entail. All DOE sites with LLW must perform at least minimum treatment on all of their LLW, regardless of whether the waste is further treated using volume reduction methods. A programmatic volume reduction treatment strategy would pose greater worker hazards, because workers would be exposed to risks from additional treatment processes. The analyses did not demonstrate that these more immediate worker risks would be offset by corresponding long-term human health or environmental risk reduction due to volume reduction. Volume reduction also could pose additional transportation impacts; because not all

sites have volume reduction treatment facilities, some LLW would have to be shipped for treatment. Finally, volume reduction would cost twice as much as minimum treatment, and the increased treatment costs generally would not be offset by potential savings from disposing of less waste or other benefits.

Disposal of LLW

Tables 7.16–1 and 7.16–2 in the Final WM PEIS compare alternatives with respect to the disposal of LLW. In general, the tables present estimates of potential worker and off-site population fatalities, the ability of sites to meet air and groundwater quality standards, and costs for the various LLW alternatives analyzed in the WM PEIS. Chapter 7 also discusses other types of LLW impacts, including cultural resource and environmental justice concerns. All of the environmental factors were considered in identifying environmentally preferable alternatives and in making the decision stated below.

Environmentally Preferable Alternatives: For LLW disposal, the Decentralized and Regionalized Alternatives pose the least environmental impacts and are the environmentally preferable disposal alternatives. The Decentralized and all Regionalized Alternatives pose similar transportation fatality impacts, which are lower than for the Centralized Alternatives. Potential fatalities from facility operation are low and similar for all alternatives. No alternative would present environmental justice concerns.

Decision: The Department has decided to establish regional LLW disposal at two DOE sites: the Hanford Site and NTS. Specifically, the Hanford Site and NTS will each dispose of its own LLW on-site, and will receive and dispose of LLW that is generated and shipped (by either truck or rail) by other sites that meets the waste acceptance criteria. In addition, DOE will continue, to the extent practicable, disposal of on-site LLW at INEEL, LANL, ORR, and SRS. INEEL and SRS also will continue to dispose of LLW generated by the Naval Nuclear Propulsion Program.

Use of the term ''regional'' disposal does not impose geographical restrictions on which DOE sites may ship waste to a disposal site; the term is used only to be consistent with the WM PEIS analysis of regionalized alternatives. This decision also does not preclude DOE's use of commercial disposal facilities, consistent with current DOE orders and policy.

This decision is the preferred alternative that DOE announced in the December 1999 Notice discussed above. Under this decision, DOE will implement a combination of the preferred LLW disposal alternative identified in the Final WM PEIS (i.e., regionalized disposal at two DOE sites—the Hanford Site and NTS) and the Decentralized Alternative (disposal of on-site generated LLW at four sites —INEEL, LANL, ORR, and SRS).

Basis for Decision: DOE's decision is based on low impacts to human health, operational flexibility, and relative implementation cost. The Hanford Site and NTS provide environmental safety benefits inherent to arid sites, where evaporation rates exceed rainfall by approximately 10 to 1 or more. The local geology at NTS greatly restricts the potential for any contamination to move into the groundwater, which is located 800 feet below the surface. Both the Hanford Site and NTS LLW disposal facilities have expansion capability and can dispose of a wide range of radionuclides. Using two disposal facilities provides operational flexibility to align waste streams with facility waste acceptance criteria and access to an alternate disposal facility should the other facility's operations be interrupted for any reason.

MLLW Treatment

Tables 6.16–1 and 6.16–2 in the Final WM PEIS compare alternatives with respect to the treatment of MLLW. In general, the tables present estimates of potential worker and off-site population fatalities, the ability of sites to meet air and groundwater quality standards, and costs for the various MLLW alternatives analyzed in the WM PEIS. Chapter 6 also discusses other types of MLLW impacts, including cultural resource and environmental justice concerns. All of the environmental factors were considered in identifying environmentally preferable alternatives and in making the decision stated below.

Environmentally Preferable Alternatives: For MLLW treatment, all action alternatives are environmentally preferable because their potential environmental impacts (including transportation impacts) are not substantially different, are small, and present long-term benefits. The No Action Alternative could pose less risk than action alternatives to workers and communities surrounding DOE's sites for the first 20 years. Longer-term risks from no action are likely to exceed those for the first 20 years, not only from continuing routine storage operations, but also from degradation of storage facilities and containers. (Under the No Action Alternative, MLLW would be indefinitely stored rather than disposed of.)

Decision: DOE has decided to implement the Preferred Alternative specified in the Final WM PEIS for the treatment of MLLW. DOE will conduct regional MLLW treatment at the Hanford Site, INEEL, ORR, and SRS, or on-site, as would be consistent with current Site Treatment Plans. Current Site Treatment Plans were negotiated among DOE, the host state, and/or the Environmental Protection Agency under the Federal Facility Compliance Act, and may undergo periodic renegotiation. Use of the term ''regional'' treatment does not impose geographical restrictions on which DOE sites may ship waste (by either truck or rail) to a given treatment site; the term is used only to be consistent with the WM PEIS analysis of regionalized alternatives. DOE's decision does not preclude DOE's use of commercial treatment facilities, consistent with DOE orders and policy.

Basis for Decision: The four regional treatment sites offer unique treatment capabilities needed by other sites in the DOE complex. This decision takes advantage of infrastructure capabilities that already exist or have been decided upon at the Hanford Site, INEEL, ORR and SRS—which are capable of MLLW treatment to meet RCRA land disposal restrictions. The decision also avoids environmental impacts and costs associated with construction of new facilities.

Potential impacts from the selected configuration are within those estimated for regionalized and decentralized alternatives as analyzed in the WM PEIS. With the appropriate project-specific NEPA review, any site could conduct MLLW treatment on-site. The potential environmental impacts of all alternatives for treatment of MLLW evaluated in the WM PEIS are small, with no individual alternative clearly showing the lowest overall impacts. The No Action Alternative is not acceptable because it would not meet DOE's long-term waste management goals nor comply with applicable RCRA requirements.

MLLW Disposal

Tables 6.16–1 and 6.16–2 in the Final WM PEIS compare alternatives with respect to the disposal of MLLW. In general, the tables present estimates of potential worker and off-site population fatalities, the ability of sites to meet air and groundwater quality standards, and costs for the various MLLW alternatives analyzed in the WM PEIS. Chapter 6 also discusses other types of MLLW impacts, including cultural resource and

environmental justice concerns. All of the environmental factors were considered in identifying environmentally preferable alternatives and in making the decision stated below.

Environmentally Preferable Alternatives: For MLLW disposal, all of the alternatives have low and similar impacts, with Regionalized Alternative 3 being the environmentally preferable alternative because disposal would require the fewest engineered enhancements to avoid exceeding drinking water standards. No alternative would present environmental justice concerns.

The No Action alternative is based on indefinite storage and does not prepare the waste for disposal, i.e., permanent isolation from the human environment. For the 20-year waste management period considered in the WM PEIS, the potential impacts under the No Action alternative for MLLW disposal are smaller than those identified under the action alternatives, and on this short-term basis, the No Action alternative could be considered to be the environmentally preferred alternative. However, the No Action alternative does not include shipment (or transportation impacts) of MLLW for disposal. Further, the No Action alternative would not protect human health and the environment from such long-term threats as deteriorating containers or loss of institutional control and cannot be considered environmentally preferable.

Decision: The Department's decision is to establish regional MLLW disposal operations at two DOE sites: the Hanford Site and NTS. The Hanford Site and NTS will each dispose of its own MLLW on-site, and will receive and dispose of MLLW generated and shipped (by truck or rail) by other sites, consistent with permit conditions and other applicable requirements. Use of the term ''regional disposal'' does not impose geographical restrictions on which DOE sites may ship waste to a disposal site; the term is used only to be consistent with the WM PEIS analysis of regionalized alternatives. This decision does not preclude DOE's use of commercial disposal facilities, consistent with current DOE orders and policy. This decision is the preferred alternative that DOE announced in its December 10, 1999 Notice of Preferred Alternatives.

Basis for Decision: DOE's decision to regionalize MLLW disposal at the Hanford Site and NTS is based on low impacts to human health, operational flexibility, and relative implementation cost. The Hanford Site and NTS are the only two DOE sites that have MLLW disposal facilities already constructed. Use of these existing facilities will avoid environmental impacts and costs associated with facility construction. Further, DOE does not foresee needing a third regional MLLW disposal facility for the estimated volume of MLLW to be disposed of during the next 20 years. Using two disposal facilities provides operational flexibility to align waste streams with facility waste acceptance criteria and access to an alternate disposal facility should the other facility's operations be interrupted for any reason.

Mitigation of Impacts from Treatment and Disposal of LLW and MLLW

Chapter 12 of the WM PEIS describes measures that DOE could take to minimize the potential impacts of its waste management activities. Mitigation measures are an integral part of the Department's operations, so as to avoid, reduce, or eliminate potentially adverse environmental impacts. Some of the more important mitigation measures that DOE will continue during the treatment and disposal of LLW and MLLW are:

- Development and implementation of pollution prevention plans.
- Assistance to States, Tribal and local governments, and other public entities concerning human health, environmental, and economic impacts.
- Development of ''cleaner'' waste treatment, storage and disposal technologies.
- Stringent application of administrative controls, including disposal facility waste acceptance criteria and stable waste form requirements.
- Maintenance and enhancement of pollution control systems to reduce toxicity of air and surface water effluents.
- Reuse of existing facilities rather than construction of new facilities.
- Training to ensure workers understand operational safety limits within which a facility can operate while limiting risks and adequately protecting the environment.
- Training to ensure DOE and non-DOE emergency response personnel are knowledgeable of emergency response procedures.
- Implementation of transportation planning and control programs to reduce transportation risk.
- Rigorous quality assurance programs for the characterization of LLW and MLLW.

These are routine mitigation measures for which a mitigation action plan is not required. Site-specific, non-routine mitigation measures may also be identified and implemented in the course of further decision making under site-specific NEPA reviews.

Amendment of the Record of Decision for NTS

On December 9, 1996, DOE issued a ROD (61 FR 65551) for the Final Environmental Impact Statement for the Nevada Test Site and Off-Site Locations in the State of Nevada (NTS EIS). That ROD cited the then-pending Final WM PEIS and stated that subsequent programmatic decisions ''may require changes to the Waste Management Program at NTS in the future,'' and ''that in the interim, pending those programmatic decisions, DOE will maintain the current level of LLW and MLLW management activity as described in the No Action Alternative in the NTS EIS.'' For LLW, the decision meant that ''disposal of LLW will continue for waste streams from current [DOE approved] on-site and off-site generators'' and that ''approval of other waste generators for disposal is pending future programmatic decisions.'' For MLLW, the decision meant that ''DOE will continue to manage MLLW which is currently on-site or which may be generated by DOE at NTS.''

The NTS EIS addressed the environmental impacts of four operational scenarios: (1) Continue Current Operations (No Action), (2) Discontinue Operations, (3) Expanded Use, and (4) Alternate Use of Withdrawn Lands. The ROD identified DOE's decision to implement a combination of elements of three of these alternatives. DOE decided that most activities would be pursued at levels described by the Expanded Use Alternative. In addition, DOE decided to undertake certain public education activities analyzed under the Alternate Use of Withdrawn Lands Alternative. As stated above, DOE also decided that, pending programmatic decisions, NTS LLW and MLLW management operations would be conducted under the Continue Current Operations Alternative.

Under the Continue Current Operations Alternative, the NTS EIS analyzed the environmental impacts for a ten-year period of disposal of 349,294 cubic meters of LLW in either of two Radioactive Waste Management Sites (Areas 3 and 5) at the NTS and 18,285 total shipments via legal weight trucks on public highways. Under the Expanded Use Alternative, the NTS EIS analyzed 1,041,422 cubic meters of LLW to be disposed of and 39,084 shipments. While there is a substantial difference in the volumes of waste and numbers of

shipments under the two alternatives, DOE found in the NTS EIS that the incremental environmental impacts associated with waste management activities of Expanded Use as compared to Continue Current Operations were negligible.

Inasmuch as DOE is now making complex-wide decisions for its LLW and MLLW waste management program, which includes continuing to use the NTS for disposal of LLW and initiating use of the NTS for disposal of MLLW, as addressed in the WM PEIS, DOE is also hereby amending its December 9, 1996, NTS EIS ROD. DOE will implement the Expanded Use Alternative for waste management activities at NTS, including LLW and MLLW disposal. This amendment is based on the analysis in the NTS EIS and is tiered from the WM PEIS and the associated programmatic decisions for LLW and MLLW.

Issued in Washington, D.C. this 18th day of February, 2000.

Carolyn L. Huntoon,

Assistant Secretary for Environmental Management.

[FR Doc. 00–4439 Filed 2–24–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

Fish and Wildlife Implementation Plan

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of scoping meeting.

SUMMARY: This notice announces BPA's scoping meeting for its Fish and Wildlife Implementation Plan Environmental Impact Statement (EIS) being prepared in accordance with the National Environmental Policy Act (NEPA). BPA has established a scoping period during which all interested and affected persons and agencies are invited to comment on the scope of the proposed EIS. Scoping will help BPA ensure that a full range of issues related to the development and implementation of a regional fish and wildlife policy is addressed in the EIS, and also will identify significant or potentially significant impacts that may result from the implementation of such a policy. This notice also extends the close of comment for scoping from the previously published February 29, 2000, to March 31, 2000.

DATES: Please send written comments to the address below no later than Friday, March 31, 2000. Comments may also be made at an EIS scoping meeting to be held at the Bonneville Power Administration, Room 122, 905 NE 11th Avenue, Portland, Oregon, on Tuesday, March 14, 2000, from 1:00 p.m. to 4:00 p.m. At the informal meeting, a brief overview of the EIS and presentation of background information will be followed by an open house during which attendees may discuss the EIS with BPA's EIS team. Written information will also be available, and BPA staff will answer questions and accept both oral and written comments.

BPA invites comments and suggestions on the proposed scope of the Draft EIS. Send comment letters and requests to be placed on the project mailing list to Communications, Bonneville Power Administration—KC–7, P.O. Box 12999, Portland, Oregon, 97212. The phone number of the Communications office is 503–230–3478 in Portland; toll-free 1–800–622–4519 outside of Portland. Comments may also be sent to the BPA Internet address: comment@bpa.gov. Please be sure to note that your comments are on the Fish and Wildlife Implementation Plan EIS.

FOR FURTHER INFORMATION CONTACT: Charles C. Alton—KEC–4, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon, 97208–3621, phone number 503–230-5878, fax number 503–230–5699.

SUPPLEMENTARY INFORMATION: Throughout the Pacific Northwest region there are several ongoing processes to develop plans and programs for the management, recovery, and mitigation of the Columbia River Basin's fish and wildlife resources. These plans and programs will help to shape a regional fish and wildlife policy direction that will guide BPA's mitigation and recovery efforts, including its funding, for the next decade or more. BPA expects to shift its fish and wildlife spending accordingly.

BPA currently funds over 70 percent of the fish and wildlife mitigation and recovery efforts on behalf of the Federal Columbia River Power System. Consequently, BPA has a responsibility to understand the impacts of those efforts and to ensure it can fund them efficiently. Therefore, BPA is preparing an EIS that examines the impacts that may arise from implementing one of the fish and wildlife policy directions reflected in the alternatives being considered in the ongoing regional processes. A Notice of Intent to Prepare an EIS was published in the **Federal Register** on October 20, 1999 (64 FR 56488). A Notice of Scoping Meeting was also previously published in the **Federal Register** on January 6, 2000 (65 FR 765). That scoping meeting was held on February 3, 2000, in Portland, Oregon, in conjunction with several other meetings related to fish and wildlife recovery efforts in the Pacific Northwest.

Issued in Portland, Oregon, on February 18, 2000.

Roger E. Seifert,

Special Assistant to the Vice President.

[FR Doc. 00–4441 Filed 2–24–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Advisory Committee on Appliance Energy Efficiency Standards

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Energy Conservation Program for Consumer Products: Advisory Committee on Appliance Energy Efficiency Standards. Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATE AND TIME: March 28, 2000, 12:30 p.m.–4:30 p.m.

ADDRESSES: U.S. Department of Energy, 1000 Independence Avenue, SW, Room 1E–245, Washington, DC 20585–0121.

FOR FURTHER INFORMATION CONTACT: Linda Graves, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE–41, 1000 Independence Avenue, SW, Washington, DC 20585–0121, (202) 586–1851 or 586–7819, or Brenda Edwards-Jones, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE–41, 1000 Independence Avenue, SW, Washington, DC 20585–0121, (202) 586–2945.

SUPPLEMENTARY INFORMATION: Purpose of the Meeting: The Charter of the Advisory Committee has been renewed for two years to December, 2000. This is the third meeting of the Committee since the charter was renewed. The Committee will review and deliberate on DOE's activities regarding appliance energy efficiency standards and provide comments and recommendations to the Department.

Preliminary Agenda:

- Introductions, Agenda Review (12:30 p.m.)

- Chairman's Opening Remarks
- Update members on DOE rulemaking: schedule, priorities, and plans for FY 2001
- Discuss recommendations, if available, from the electronic database sub-committee
- Discuss recommendations, if available, from the consumer sub-committee
- Update members on efficiency levels for DOE commercial equipment activities
- Action Items and next meeting
- Chairman's Closing Remarks
- Adjourn (4:30 p.m.)

Please note that this draft agenda is preliminary. The times and agenda items listed are guidelines and are subject to change. A final agenda will be available at the meeting on Tuesday, March 28, 2000.

Consumer Issues: The Department is interested in addressing consumer issues in its rulemakings. If you have any issues which you would like to be addressed by the Committee, please contact Ms. Linda Graves at the address and phone number listed in the beginning of this notice.

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. Please provide ten copies of your statement. If you would like to make oral statements regarding any of the items on the agenda, you should contact Brenda Edwards-Jones at (202) 586–2945. You must make your request for an oral statement at least seven days before the meeting. Presentations will be limited to five minutes. We will try to include the statement in the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business.

Minutes: We will make the minutes of this meeting available for public review and copying within 30 days at the Freedom of Information Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–3142, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on February 22, 2000.

Rachel Samuel,

Deputy Advisory Committe Management Officer.

[FR Doc. 00–4440 Filed 2–24–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–507–000]

Amoco Energy Trading Corporation, Amoco Production Company, and Burlington Resources Oil & Gas Company v. El Paso Natural Gas Company; Notice of Technical Conference

February 18, 2000.

On November 10, 1999, the Commission issued an ''Order of Complaint Establishing Procedures'' which required El Paso Natural Gas Company (El Paso) to file a proposal to change its capacity allocation methods and directed the Commission Staff to convene a technical conference in the proceeding, *Amoco Energy Trading Corporation, et al.* v. *El Paso Natural Gas Company,* 89 FERC ¶ 61,165 (1999).

Pursuant to that order, a technical conference will be held on Thursday, March 9, 2000, at 10 a.m., in the Commission Meeting Room, Room 2C, at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. The purpose of the conference will be to discuss El Paso's February 9, 2000 proposal to change its current allocation methods and all issues related to the allocation of receipt and delivery points on El Paso's system.

All interested parties are permitted to attend.

David P. Boergers,

Secretary.

[FR Doc. 00–4445 Filed 2–24–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–157–001]

Kern River Gas Transmission Company; Notice of Compliance Filing

February 18, 2000.

Take notice that on February 14, 2000, Kern River Gas Transmission Company (Kern River) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following substitute tariff sheets, to be effective February 1, 2000:

Substitute Third Revised Sheet No. 16
Substitute Third Revised Sheet No. 56
Substitute Second Revised Sheet No. 91
Substitute Original Sheet No. 143
Substitute Original Sheet No. 144
Substitute Second Revised Sheet No. 508
Substitute First Revised Sheet No. 521–A
Substitute Third Revised Sheet No. 609
Substitute Second Revised Sheet No. 621
Substitute Third Revised Sheet No. 710
Substitute Second Revised Sheet No. 724
Substitute Third Revised Sheet No. 810
Substitute Third Revised Sheet No. 836

Kern River states that the purpose of this filing is to revise the above tariff sheets to comply with the Commission's January 28, 2000 Order in this proceeding.

Kern River states that a copy of this filing has been served upon each person designated on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–4453 Filed 2–24–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–181–000]

MIGC, Inc.; Notice of Request for Waiver

February 18, 2000.

Take notice that on February 14, 2000 MIGC, Inc. (MIGC), tendered for filing a Motion for Waiver of Interstate Web Site requirement.

MIGC states that the purpose of the filing is to request a waiver of the requirement for an interactive web site implement by the Commission on Order Nos. 587–G and 587–I.

MIGC states that copies of its filing are being mailed to its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion

to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before February 25, 2000. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm. (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–4443 Filed 2–24–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–1575–000]

Mississippi Power Company; Notice of Filing

February 16, 2000.

Take notice that on February 8, 2000, Mississippi Power Company (MPC), filed proposed changes to Rates Schedule MRA–18 of FERC Electric Tariff, First Revised Volume No. 1 (Tariff) of Mississippi Power Company. the proposed changes will provide a rate decrease to all customers under the Tariff. In addition, the filing proposes to revise the provisions of the Tariff for terminating service at any given delivery point and provides for a moratorium on unilateral changes in rates under the Tariff until January 1, 2002.

MPC has requested an effective date of January 1, 2000. The filing also contains corresponding Settlement Agreement and Statement of Consents for each of the customers served under the Tariff.

The rate decrease is being filed as a result of agreements reached between each of the customers under the Tariff and MPC, which agreements are set forth in the separate Settlement Agreement and Statement of Consents between each customer and MPC.

Copies of the filing were provided to each of the customers under the Tariff, to the Mississippi Public Service Commission, and to the Mississippi Public Utilities Staff.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). all such motions and protests should be filed on or before February 29, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–4459 Filed 2–24–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–556–002]

New York Independent System Operator, Inc., Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Light Company, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation, Power Authority of the State of New York, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation; Notice of Compliance Filing

February 16, 2000.

Take notice that on February 11, 2000, the Members of the Transmission Owners Committee of New York State, formerly known as the Member Systems of the New York Power Pool (Member Systems), and the New York Independent System Operator, Inc. (NYISO) tendered for filing certain revised tariff sheets to the ISO Services Tariff. The Member Systems and the NYISO state that these tariff sheets are in compliance with the Commission's January 12, 2000 order in this proceeding. *New York Independent System Operator, Inc. et al.,* 90 FERC ¶61,015 (2000).

The Member Systems and the NYISO request that the above-referenced tariff sheets become effective on November 18, 1999.

A copy of this filing was served upon all persons on the Commission's official service list in the captioned proceeding, and the respective electric utility regulatory agencies in New York, New Jersey and Pennsylvania.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before March 3, 2000. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–4458 Filed 2–24–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP99–322–000 and RP96–45–000]

Northern Border Pipeline Company; Notice of Informal Settlement Conference

February 18, 2000.

Take notice that an informal settlement conference will be convened in these proceedings on February 28 and 29, 2000, commencing on February 28, 2000 at 1:00 p.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, for the purpose of exploring the possible settlement of the issues and drafting possible settlement documents in this proceeding.

Any party, as defined by 18 CFR 385.102(2), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the

Commission's regulations (18 CFR 385.214).

For additional information, contact Marc G. Denkinger, (202) 208–2215; William J. Collins, (202) 208–0248; or Joel M. Cockrell, (202) 208–1184.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–4448 Filed 2–24–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1962–000]

Pacific Gas & Electric Company; Notice of Meeting

February 18, 2000.

Take notice that there will be a two day full group meeting of the Rock Creek-Cresta Collaborative on Monday, February 28 and Tuesday February 29, 2000, from 9:00 a.m. to 5:00 p.m. at the Hawthorne Suites, 321 Bercut Drive, in Sacramento, California.

For further information, please contact Elizabeth Molloy at (202) 208–0771.

David P. Boergers,

Secretary.

[FR Doc. 00–4447 Filed 2–24–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–518–010]

PG&E Gas Transmission, Northwest Corporation; Notice of Compliance Filing

February 18, 2000.

Take notice that on February 14, 2000, PG&E Gas Transmission, Northwest Corporation (PG&E GT–NW) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, Second Substitute Original Sheet No. 68A. PG&E GT–NW requests that this Tariff sheet become effective October 30, 1999.

PG&E GT–NW states that this sheet is being filed in compliance with the Commission's January 28, 2000 Order in this Docket.

PG&E GT–NW further states that a copy of this filing has been served on PG&E GT–NW's jurisdictional customers, interested state regulatory agencies, and all parties on the Commission's official service list for this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–4452 Filed 2–24–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–472–002]

Transcontinental Gas Pipe Line Corporation; Notice of Tariff Filing

February 18, 2000.

Take notice that on February 15, 2000, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, Second Substitute Second Revised Sheet No. 135B. The effective date for the tariff sheet is November 1, 1999.

Transco states that the purpose of the filing is to replace an approved tariff sheet which was inadvertently filed without deleting the ''strikeout'' text from the tariff sheet. In the process of posting the approved tariff sheet on Transco's Online Tariff website, Transco discovered the currently effective sheet was filed incorrectly. The ''redline'' and ''strikeout'' text filed on October 15, 1999 on Transco's Redline tariff sheet was filed correctly.

Transco states that the filing submits a revised tariff sheet reflecting the deletion of the strikeout text on the approved tariff sheet.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–4450 Filed 2–24–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MT00–4–000]

Transwestern Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

February 18, 2000.

Take notice that on February 14, 2000, Transwestern Pipeline Company (Transwestern) tendered for filing to become part of Transwestern's FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet to be effective March 16, 2000:

14th Revised Sheet No. 73

Transwestern states that the purpose of this filing is to update Section 19 of Transwestern's General Terms and Conditions of its Tariff to reflect the current status of Transwestern's shared facilities for purposes of Order No. 497 compliance.

Transwestern states that copies of the filing were served upon Transwestern's customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public

inspection in the Public Reference room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–4446 Filed 2–24–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–481–002]

Transwestern Pipeline Company; Notice of Compliance Filing

February 18, 2000.

Take notice that on February 14, 2000, Transwestern Pipeline Company (Transwestern), tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the tariff sheets listed on the filing, to be effective February 23, 2000.

Transwestern states that this filing is made to comply with the Commission's January 28, 2000 order accepting, subject to conditions, the tariff sheets filed by Transwestern in this proceeding.

Transwestern states that copies of the filing were served upon Transwestern customers and interested State Commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–4451 Filed 2–24–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–180–000]

Williston Basin Interstate Pipeline Company; Notice of Tariff Filing

February 18, 2000.

Take notice that on February 14, 2000, Williston Basin Interstate Pipeline company (Williston Basin), tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to become effective March 16, 2000:

Eight Revised Sheet No. 2
First Revised Sheet No. 106A
First Revised Sheet No. 365
Third Revised Sheet No. 366
Third Revised Sheet No. 367
Third Revised Sheet No. 368

Williston Basin states that the revised tariff sheets are being filed to reflect the removal of Williston Basin's Rate Schedule IT–1 revenue crediting mechanism and the addition of tariff language to exclude the charge for storage fuel use, lost and unaccounted for gas on non-cycled storage gas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–4454 Filed 2–24–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP–182–000]

Young Gas Storage Company, Ltd.; Notice of Tariff Filing

February 18, 2000.

Take notice that on February 16, 2000, Young Gas Storage Company, Ltd. (Young), tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed in Appendix A to the filing, to be effective March 16, 2000.

Young states it is proposing to make certain minor changes to its tariff and certain administrative revisions and clarifications as follows:

- Young is proposing to delete the obsolete word ''Demand'' from its General Terms and Conditions. This word will be replaced with ''Reservation'' throughout the tariff;
- Young is proposing to update and expand the Payments, Notices, Nominations and Points of Contact Sheets;
- Young is proposing to remove outdated language relating to rates during the first four years of storage field development;
- Young is clarifying the calculation of Capacity Overrun of Maximum Available Capacity;
- Young is proposing to incorporate nomination language in the General Terms and Conditions section of the tariff. This language was formerly in the Form of Storage Service Agreement section;
- Young is proposing to incorporate Revenue Credit language in the General Terms and Conditions section of the tariff. This language was formerly in the Form of Storage Service Agreement section;
- Young has clarified that authorized overrun quantities will be scheduled based on rate.
- Young proposed to clarify the responsibility of each party with regard to check meters and measurement review;
- Young has clarified the basis of the Annual Charge Adjustment;
- Young is revising the complaints section of the General Terms and Conditions to conform to the requirements in Rule 206 of FERC's Rule of Practice and Procedure (18 CFR 385.206);
- Young also proposes to capitalize defined terms, change ''Young'' to ''Transporter'', change ''Customer'' to ''Shipper'' and make other minor

corrections and clarifications throughout the tariff.

Young further states that copies of this filing have been served on Young's jurisdictional shippers and public bodies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–4455 Filed 2–24–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2722–008 Utah]

PacifiCorp Power Company; Notice of Availability of Draft Environmental Assessment

February 18, 2000.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for a new license for the Pioneer Hydroelectric Project, and has prepared a Draft Environmental Assessment (DEA). The project is located on the Ogden River near the City of Ogden, Weber County, Utah. The water to operate the project comes from the Pineview dam, via the Ogden Canyon Conduit. The dam is owned and operated by the Bureau of Reclamation (BOR). However, the 5.5-mile-long flowline is located within the Cache National Forest, administered by the U.S. Forest Service (FS). The DEA contains the staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

Copies of the DEA are available for review in the Public Reference Room, Room 2A, of the Commission's offices at 888 First Street, N.E., Washington, D.C. 20426. This DEA may also be viewed on the web at http://www.ferc.fed.us/online/rims.htm (please call (202) 208–2222 for assistance).

Any comments should be filed within *30* days from the date of this notice and should be addressed to David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. For further information, contact Gaylord Hoisington, Project Coordinator, at (202) 219–2756.

David P. Boergers,

Secretary.

[FR Doc. 00–4456 Filed 2–24–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP00–61–000, CP00–62–000, CP00–63–000, and CP00–65–000]

Central New York Oil and Gas Company, LLC and Tennessee Gas Pipeline Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Stagecoach Storage Field and Expansion Projects, Request for Comments on Environmental Issues, and Notice of Public Scoping Meetings and Site Visit

February 18, 2000.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Stagecoach Storage Field Project by Central New York Oil and Gas Company, LLC (Central New York) and the Stagecoach Expansion Project by Tennessee Gas Pipeline Company (Tennessee). These companion projects involve construction and operation of facilities in Bradford, Susquehanna, and Pike Counties, Pennsylvania; Tioga, Rockland, and Westchester Counties, New York; and Sussex, Passaic, and Bergen Counties, New Jersey.[1] The combined facilities would consist of about 49 miles of various diameter pipeline and 39,550 horsepower (hp) of compression. The EA will be used by the Commission in its decision-making process to determine whether the projects are in the public convenience and necessity.

If you are a landowner on Central New York's or Tennessee's proposed route and receive this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the projects are approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline companies could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' was attached to the project notice Central New York and Tennessee provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet website (www.ferc.fed.us).

This Notice of Intent (NOI) is being sent to landowners crossed by Central New York's and Tennessee's proposed route; Federal, state, and local government agencies; national elected officials; regional environmental and public interest groups; Indian tribes that might attach religious and cultural significance to historic properties in the area of potential effects; local libraries and newspapers; and the Commission's list of parties to the proceeding. Government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern. Additionally, with this NOI we are asking Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the EA. These

[1] Central New York's application in Docket Nos. CP00–61–000, CP00–62–000, and CP00–63–000, were filed with the Commission on December 30, 1999, under section 7 of the Natural Gas Act and parts 157 and 284 of the Commission's regulations. Tennessee's application in Docket No. CP00–65–000 was filed with the Commission on December 30, 1999, under section 7 of the Natural Gas Act.

agencies may choose to participate once they have evaluated Central New York's and Tennessee's proposals relative to their agencies; responsibilities. Agencies who would like to request cooperating status should follow the instructions for filing comments described below.

Summary of the Proposed Projects

Central New York proposes to develop an underground natural gas storage facility, with a working gas capacity of up to 13.6 billion cubic feet (Bcf), in Tioga County, New York, having withdrawals of as much as 500 million cubic feet per day (MMcf/d) and injections of as much as 250 MMcf/d. The Stagecoach Storage Field Project would make use of two producing but nearly depleted gas fields with a surface area of about 5,172 acres. Central New York seeks Commission authority to construct and operate the following facilities:

- Up to 24 storage injection/withdrawal wells;
- A 25,000-hp electrically-driven compressor station (Central Compression Facility) with gas cleaning and dehydration equipment, regulating facilities, pig launchers and receivers, miscellaneous values and regulators, and control equipment;
- A total of about 10 miles of 6-inch-, 12-inch-, and 20-inch-diameter pipeline;
- 14 meter stations and isolating valves along the gathering pipeline system; and
- About 2 miles of access roads not contained within pipeline or well site easements.

The Stagecoach Storage Field Project also includes a 4.8-mile-long, 12-inch-diameter pipeline (Twin Tier Lateral) from the Central Compressor Facility to a non-jurisdictional electric generating facility (Twin Tier Power Plant); and a 1.6-mile-long non-jurisdictional 115 (kilovolt) kV electric transmission line that would extend from the Central Compression Facility to a point of interconnection with a 115 kV transmission line owned by the New York State Electric & Gas Corporation.

In addition to connecting its existing pipeline system to the proposed Stagecoach Storage Field, Tennessee wants to expand the capacity of its existing 300-Line in Pennsylvania, New Jersey, and New York, to transport an additional 90,000 dekatherms (Dth) per day of natural gas to accommodate additional firm transportation service. Tennessee seeks Commission authority to construct and operate the following facilities:

- About 23.7 miles of 30-inch-diameter lateral (Stagecoach Lateral) extending from an interconnection with Tennessee's mainline system in Bradford County, Pennsylvania to an interconnect with Central New York's Stagecoach Storage Field Project in Tioga County, New York;
- A new bi-directional meter station, capable of handling 500,000 Dth per day, at the northern end of the Stagecoach Lateral;
- About 3.9 miles of 30-inch-diameter loop [2] on its 300-Line in Susquehanna County, Pennsylvania;
- A new 14,550-hp Solar Mars gas turbine centrfugal compressor station near the Tennessee Mainline Valve 323–1 in Pike County, Pennsylvania;
- About 6.5 miles of 24-inch-diameter pipeline to replace various sections along the 300-Line in Pennsylvania and New Jersey as a result of increasing the maximum allowable operating pressure (MAOP of 74.1 miles of pipeline on the 300-Line; and
- Modifications and/or upgrades at 10 existing meter stations and 3 mainline valves at various locations along the 300-Line to accommodate the MAOP increase.

In addition, Tennessee seeks Commission authority to abandon the 6.5 miles of 24-inch-diameter pipeline which would be replaced as a part of the above-referenced MAOP uprate.

The general location of Central New York's and Tennessee's Project facilities are shown in appendix 1. [3]

Land Requirements for Construction

Construction of the Stagecoach Storage Field and Expansion Projects would require about 887.2 acres of land. Following construction, Central New York would maintain about 171 acres and Tennessee would maintain about 198.5 acres as permanent right-of-way (ROW). The remaining 517.7 acres of land would be restored and allowed to revert to its former use.

Central New York proposes to use a typical pipeline construction ROW width of 85 feet for the gathering pipelines, consisting of 50 feet of permanent ROW and 35 feet of temporary extra work space. The Twin Tier Lateral would require both a construction and permanent ROW width of 100 feet, which it would share with an existing and proposed transmission line ROW. Central New York's Central Compression Facility would permanently occupy an area of about 5.7 acres on a 45-acre parcel it currently owns.

Tennessee proposes to use a typical pipeline construction ROW width of 100 feet for both the Stagecoach Lateral and the 3.9-mile-long loop, consisting of 50 feet of permanent ROW and 50 feet of temporary extra work space. Tennessee's proposed compressor station would permanently occupy an area of about 8 acres on a 91-acre parcel. Construction of Tennessee's proposed expansion along its 300-Line would occur primarily within existing rights-of-way, although Tennessee would need to acquire additional ROW to use as temporary workspace.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [4] to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this NOI, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, elected officials, affected landowners, regional public interest groups, Indian tribes, local newspapers and libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

Currently Identified Environmental Issues

The EA will discuss impacts that could occur as a result of construction and operation of the proposed projects.

[2] A loop is a segment of pipeline that is installed adjacent to an existing pipeline and connected to it on both ends. The loop allows more gas to be moved through the pipeline system.

[3] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's website at the ''RIMS'' link or from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE, Room 2A, Washington, DC 20426, or call (202) 208–1371. For instructions on connecting to RIMS refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

[4] ''Us,'' ''we,'' and ''our'' refer to the environmental staff of the FERC's Office of Energy Projects.

We have already identified a number of issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by both Central New York and Tennessee. This preliminary list of issues may be changed based on your comments and our analysis.

- Geology and Soils

—Temporary and permanent impacts on prime farmland soils.

—Erosion control and right-of-way restoration.

—Introduction of rock into topsoil.

- Water Resources and Wetlands

—Crossing 26 perennial streams, including coldwater fisheries.

—Crossing of three waterbodies greater than 100 feet wide.

—Impacts on the Delaware River, a designated National Scenic River, resulting from Tennessee's hydrostatic test.

—Crossing 109 wetland areas and affecting a total of 17.1 acres of wetlands.

- Biological Resources

—Impacts on about 324.2 acres of forest or woodland habitat.

—Impact on State Game Land 219 in Bradford County, Pennsylvania.

—Impact on the Wallkill River National Wildlife Refuge in Sussex County, New Jersey.

—Impacts on the bog turtle, a federally listed threatened species.

- Cultural Resources

—Impacts on prehistoric and historic sites.

—Native American concerns.

- Land Use

—Impacts on crop production.

—Impacts on residential areas.

—Visual effect of the aboveground facilities on surrounding areas.

—Impacts on 79 residences and 3 condominium complexes within 50 feet of the proposed construction work area.

—Impacts on the Delaware Water Gap National Recreation Area.

- Air and Noise Quality

—Impacts on local air quality and noise environment as a result of the operation of new compressor stations.

- Alternatives

—Evaluate possible alternatives to the proposed projects or portions of the projects, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Also, we have made a preliminary decision to not address the impacts of the nonjurisdictional facilities. We will briefly describe their location and status in the EA.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the projects. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations or routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send two copies of your letter to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St., N.E., Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of the Environmental Review and compliance Branch, PR–11.1;
- Reference Docket Nos. CP00–61–000, CP00–62–000, CP00–63–000, and CP00–65–000;
- Mail your comments so that they will be received in Washington, DC on or before March 20, 2000.

If you do not want to send comments at this time but still want to remain on our mailing list, please return the Information Request (appendix 3). If you do not return the Information Request, you will be taken off the mailing list.

In addition to or in lieu of sending written comments,we invite you to attend the public scoping meetings the FERC will conduct in the project areas. The locations and times for these meetings are listed below.

Schedule of Public Scoping Meetings for the Stagecoach Storage Field and Expansion Projects

March 6, 2000—7:00 pm—Owego, New York, Owego-Apalachin Middle School Cafeteria, Elm Avenue, (607) 687–6248.

March 7, 2000—7:00 pm—Montrose, Pennsylvania, Montrose High School Auditorium, 80 High School Road, (570) 278–3731.

March 8, 2000—7:00 pm—Hamburg, New Jersey, Wallkill Valley Regional High School Cafeteria, 10 Grumm Road, (973) 827–4100.

The public meetings are designed to provide you with more detailed information and another opportunity to offer your comments on the proposed projects. Central New York and Tennessee representatives will be present at the scoping meetings to describe their proposal. Interested groups and individuals are encouraged to attend the meetings and to present comments on the environmental issues they believe should be addressed in the EA. A transcript of each meeting will be made so that your comments will be accurately recorded.

On the dates of the meetings, we will also be conducting limited site visits to the project areas. Anyone interested in participating in the site visit may contact the Commission's Office of External Affairs identified at the end of this notice for more details and must provide their own transportation.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2). Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Additional information about the proposed projects is available for Mr. Paul McKee of the Commission's Office of External Affairs at (202) 208–1088 or on the FERC website (www.ferc.fed.us) using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the

CIPS helpline can be reached at (202) 208–2474.

David P. Boergers,

Secretary.

[FR Doc. 00–4444 Filed 2–24–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

February 18, 2000.

Take notice that the following hydroelectric application has been accepted for filing and the Commission has established a deadline for interventions and protests:

a. *Type of Application:* New Major License

b. *Project No.:* 2090–003.

c. *Date filed:* August 31, 1999.

d. *Applicant:* Green Mountain Power Corporation.

e. *Name of Project:* Waterbury Project.

f. *Location:* On Little River in Washington County, Vermont. No Federal Lands used in this project.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Craig T. Myotte, Green Mountain Power Corporation, 163 Action Lane, Colchester, VT 05446, (802) 660–5830.

i. *FERC Contact:* Any questions on this notice should be addressed to Robert Bell, E-mail address, Robert.bell@ferc.fed.us, or telephone 202–219–2806.

j. *Deadline for filing motions to intervene and protests:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NW, Washington, DC 20426.

The Commission's rules of practice and procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Status of Environmental Analysis:* This application has been accepted for filing but is not ready for environmental analysis at this time—see attachment paragraph E1.

l. The existing project utilizing the U.S. Army Corps of Engineers Waterbury Dam and reservoir consists of: (1) A submerged concrete intake structure; (2) two 205-foot-long, 54-inch diameter steel penstocks which connect to a 79-inch-diameter penstock; (3) a powerhouse having one generating unit with an installed capacity of 5,520 kW; (4) a tailrace; (5) 50-foot-long, 33kV transmission line; and (6) appurtenant facilities.

The applicant does not propose any modifications to the project features or operation.

The project would have an annual generation of 16,223 MWh and would be used to provide energy to its customers.

n. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at http://www.ferc.fed.us/rims.htm. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

David P. Boergers,

Secretary.

[FR Doc. 00–4449 Filed 2–24–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

February 18, 2000.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Preliminary Permit.

b. Project No.: 11833–000.

c. Date filed: January 3, 2000.

d. Applicant: City of Wrangell.

e. Name of Project: Sunrise Lake Project.

f. Location: Within Tongass National Forest, on Woronkofski Island, near the city of Wrangell, Alaska. Sections 4, 5, 6, 7, 8, 16, 17, 20, and 21 in T63S, R83E.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. Applicant Contact: Dave Sousak, City Manager, City of Wrangell, P.O. Box 531, Wrangell, AL 99929, (907) 874–2381.

i. FERC Contact: Robert Bell, robert.bell@ferc.fed.us, 202–219–2806.

j. Deadline for filing motions to intervene, protests and comments: 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. The proposed project would consist of: (1) A 10-foot-high concrete faced rockfill dam; (2) A siphon intake located in Sunrise Lake; (3) A 20-inch-diameter 5,500-foot-long steel penstock; (4) A powerhouse containing two generating units having a total installed capacity of 4 MW; (5) A screened tailrace; (6) A 500-foot-long, 69 kV transmission line; and (7) Appurtenant facilities.

The project would have an annual generation of 12,208 MWh and project power would be sold to a local utility.

l. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself , or a notice of intent to file such an application, to the Commission, on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title COMMENTS, NOTICE OF INTENT TO FILE COMPETING APPLICATION, COMPETING APPLICATION, PROTEST, MOTION TO INTERVENE, as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 00–4457 Filed 2–24–00; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6251–4]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 OR www.epa.gov/oeca/ofa.

Weekly receipt of Environmental Impact Statements filed February 14, 2000 through February 18, 2000 pursuant to 40 CFR 1506.9.

EIS No. 000045, FINAL EIS, FHW, AZ, AZ–260 Transportation Improvements, between Payson and Heber, Funding, NPDES and COE Section 404 Permits, Gila, Coconino and Navajo Counties, AZ, Due: March 27, 2000, Contact: Nathan M. Banks (602) 379–3646.

EIS No. 000046, FINAL EIS, FHW, ND, Interstate 29 Reconstruction Project, Improvements from Rose Coulee to Cass County Road No. 20, Funding, City of Fargo, ND, Due: March 27, 2000, Contact: J. Michael Brown (701) 250–4204.

EIS No. 000047, DRAFT EIS, NPS, KY, TN, Big South Fork National River and Recreation Area, General Management Plan, Implementation, McCreary, KY and Fentress, Morgan, Pickett, Scott Counties, TN, Due: April 10, 2000, Contact: Reed Detring (423) 569–9778.

EIS No. 000048, FINAL EIS, BLM, CO, North Fork Coal Program, Approval of

Two Lease-By-Applications (LBA) and Exploration License for Iron Point and Elk Creek Coal Leases, Delta and Gunnison Counties, CO, Due: March 27, 2000, Contact: Jerry Jones (970) 240–5338. The US Department of the Interior's Bureau of Land Management and Department of Agriculture's Forest Service are Joint Lead Agencies for this project.

EIS No. 000049, DRAFT EIS, AFS, MT, Mill-Key-Wey Project, Proposed Timber Harvesting, Ecosystem Burning, Road Construction and Reconstruction, Implementation, Lolo National Forest, Superior Ranger District, Mineral County, MT, Due: April 10, 2000, Contact: Tom Martin (406) 822–3961.

EIS No. 000050, FINAL EIS, FHW, MO, MO–19 Missouri River Replacement Bridge Project, Construction and Operation, US Coast Guard and COE Section 404 Permits, Gasconade and Montgomery Counties, MO, Due: March 31, 2000, Contact: Don Neumann (573) 636–7104.

EIS No. 000051, DRAFT EIS, FTA, OH, Bera/I–X Center Red Line Extension Project, Southwest Corridor Major Investment, Transit Improvements, Funding, Cuyahoga County, OH, Due: April 10, 2000, Contact: Carlos Pena (312) 353–2865.

Amended Notices

EIS No. 000042, DRAFT EIS, USN, CA, El Toro Marine Corps Air Station Disposal and Reuse, April 03, 2000, Contact: Robert Montana (619) 532–0942, Published -FR–02–18–2000. Correction to Comment date from 03–20–2000 to 04–03–2000. Correction to Contact Name and Telephone.

Dated: February 22, 2000.

Joseph C. Montgomery,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. 00–4516 Filed 2–24–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6251–5]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared February 07, 2000 through February 11, 2000 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 09, 1999 (63 FR 17856).

Draft EISs

ERP No. D–AFS–E65052–KY Rating EC1, Daniel Boone National Forest, Implementation, Salvage Harvest Due to 1998 Storm Damage Timber, McCreary and Pulaske County, KY.

Summary: EPA expressed environmental concerns about potential adverse impacts regarding water quality, riparian vegetation and increased bank erosion. EPA recommends implementing Alternative C which appears to strike a good balance by minimizing impacts to the sensitive important Rock and Marsh Creek corridors.

ERP No. D–BLM–J02038–WY Rating LO, Pinedale Anticline Oil and Gas Exploration and Development Natural Gas Wells Project, Implementation, Sublette County, WY.

Summary: EPA has no objections to the action as proposed.

ERP No. D–COE–K36131–CA Rating EC2, Lower Mission Creek Flood Control Project, Proposed Plan for Flood Control, City of Santa Barbara, Santa Barbara County, CA.

Summary: EPA concurred that alternative 12 would increase biological, visual, and water resource values associated with Mission Creek and would enhance flood control. EPA expressed concerns that the Tidewater Goby may be adversely affected and recommended that potential for scouring; wetland washouts; and culvert clogging be further addressed and rectified in the FEIS.

ERP No. D–FHW–E40781–TN Rating EC2, Interstate 40 (I–40) Transportation Improvements from I–75 to Cherry Street in Knoxville, Funding, NPDES and COE Section 404 Permits, Knox County, TN.

Summary: EPA expressed environmental concerns regarding potential noise and cultural resource impacts. EPA requested that these issues be addressed in greater detail in the final document.

ERP No. D–FHW–E40782–NC Rating EC2, Western Wake Freeway, Transportation Improvements from NC–55 at NC–1172 (Old Smithfield Road) to NC–55 near NC–1630 (Alston Avenue), Funding and COE 404 Permit, Wake County, NC.

Summary: EPA expressed environmental concerns that the residential noise impacts will be substantial for all of the alternatives and that additional efforts are needed to lessen them. Additionally, EPA expressed concerns for the cumulative social impacts to one community and for storm water impacts for the entire project.

ERP No. D–NPS–F65025–MI Rating EC2, Sleeping Bear Dunes National Lakeshore, Historic Properties Management Plan, Implementation, MI.

Summary: EPA expressed environmental concerns about the potential adverse impacts of development to the lakeshore resources and requested that the final EIS include information addressing the types of activities that will be subject to NEPA and the relationship between the Historic Properties Management Plan and the General Management Plan.

FINAL EISs

ERP No. F–FHW–F40085–IN US 231 Transportation Project, New Construction from CR–200 N to CR–1150 S, Funding, Right-of-Way Permit and COE Section 404 Permit, Spencer and Dubois Counties, IN.

Summary: The information provided in the final EIS is sufficient to resolve EPA's previously expressed concerns for documentation of the project's Purpose and Need, Range of Alternatives to be Evaluated, and Selection of a Preferred Alternative. Additionally, the Conceptual Wetlands Mitigation Plan described is also acceptable.

ERP No. F–FHW–G40148–00 US–71 Transportation Improvements, from south of Bella Vista to Pineville, Benton County, AR and McDonald County, MO.

Summary: EPA has no further comments. The final EIS adequately responded to EPA's comments on the draft EIS.

ERP No. F–FHW–J54000–CO Southeast Corridor Multi-Modal Project, To Improve Travel between Central and Southeast Corridors, Light Rail Transit (LRT), Colorado Metropolitan Area, Denver, CO.

Summary: EPA continues to express concerns regarding potential indirect and cumulative impacts.

ERP No. F–FTA–L53002–WA Everett-to-Seattle Commuter Rail Project, Construction and Operation, To Link the Cities of Everett, Mukilteo, Edmonds, Shoreline, and the Seattle Waterfront, U.S. Coast Guard, COE Section 10 and 404 Permits, Snohomish County, WA.

Summary: EPA's primary concern was addressed in the final EIS: the preferred alternative identified will have fewer impacts to the environmental than the other build alternatives.

ERP No. F–NRC–E06003–SC Generic EIS—License Renewal of Nuclear Plants

for the Oconee Nuclear Station, Units 1, 2 and 3, Implementation, Oconee County, SC.

Summary: EPA continues to express environmental concerns regarding offsite radiological impacts. EPA requested that these issues be discussed in more detail during the relicensing process.

Dated: February 22, 2000.

Joseph C. Montgomery,

Environmental Protection Specialist Office of Federal Activities.

[FR Doc. 00–4517 Filed 2–24–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30453A; FRL–6491–7]

Pesticide Product Registrations; Conditional Approval

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of an application submitted by Bio-Care Technology, to conditionally register the pesticide products NOGALL containing a new active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(7)(C) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: Sharlene R. Matten, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 605–0514; e-mail address: matten.sharlene@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

To access a fact sheet which provides more detail on this registration, go to the Home Page for the Office of Pesticide Programs at http://www.epa.gov/pesticides/biopesticides, and select ''recent biopesticides fact sheets.''

2. *In person.* The Agency has established an official record for this action under docket control number OPP–30453A. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label, the list of data references, the data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, Crystal Mall #2, Arlington, VA. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), Ariel Rios Building, 1200 Pennsylvania Ave., NW., 20460. Such requests should: Identify the product name and registration number and specify the data or information desired.

A paper copy of the fact sheet, which provides more detail on this registration, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

II. Did EPA Conditionally Approve the Application?

A conditional registration may be granted under section 3(c)(7)(C) of FIFRA for a new active ingredient where certain data are lacking, on condition that such data are received by the end of the conditional registration period and do not meet or exceed the risk criteria set forth in 40 CFR 154.7; that use of the pesticide during the conditional registration period will not cause unreasonable adverse effects; and that use of the pesticide is in the public interest. The Agency has considered the available data on the risks associated with the proposed use of *Agrobacterium radiobacter* strain K1026 (engineered with a gene deletion), and information on social, economic, and environmental benefits to be derived from such use. Specifically, the Agency has considered the nature and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of *Agrobacterium radiobacter* strain K1026 during the period of conditional registration will not cause any unreasonable adverse effect on the environment, and that use of the pesticide is, in the public interest.

Consistent with section 3(c)(7)(C) of FIFRA, the Agency has determined that these conditional registrations are in the public interest. Use of the pesticides are of significance to the user community, and appropriate labeling, use directions, and other measures have been taken to ensure that use of the pesticides will not

result in unreasonable adverse effects to man and the environment.

III. Conditionally Approved Application

EPA issued a notice, published in the **Federal Register** of April 27, 1998 (63 FR 20629) (FRL–5785–6), which announced that Bio-Care Technology Pty Ltd., c/o U.S. Agent: Ms. Amy Roberts, Technology Sciences Group Inc., 1101 17th St., NW., Suite 500, Washington DC 20036–4704, had submitted an application to conditionally register the pesticide product, NOGALL, Microbial Biocontrol Agent/Bacterial Inoculant (EPA File Symbol 62388–R), containing *Agrobacterium radiobacter* strain K1026 at 0.25% an active ingredient not included in any previously registered product.

The application was conditionally approved on September 28, 1999, for an end-use product listed below:

NOGALL (EPA Registration Number 62388–1) containing 0.25% *Agrobiacterium radiobacter* strain K1026) is used as a biological control agent for the prevention of crown gall disease caused by the infection of nursery stock by many virulent strains of *Agrobacterium tumefaciens* and *A. rhizogenes* on non-food and non-bearing plants only.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: February 16, 2000.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 00–4423 Filed 2–24–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–920; FRL–6494–2]

Notice of Filing a Pesticide Petition to Establish a Tolerance for Certain Pesticide Chemicals in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by docket control number PF–920, must be received on or before March 27, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–920 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Mary L. Waller, Fungicide Branch, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9354; e-mail address: waller.mary@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production. Animal production. Food manufacturing. Pesticide manufacturing.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number PF–920. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–920 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3.*Electronically.* You may submit your comments electronically by e-mail to: *''opp-docket@epa.gov,''* or you can submit a computer disk as described

above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–920. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 17, 2000.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioners. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Tomen Agro, Inc. and Bayer Corporation, Agriculture Division

7F4890

EPA has received an amendment to pesticide petition (7F4890) from the TM–402 Fungicide Task Force comprised of Tomen Agro, Inc., 100 First Street, Suite 1610, San Francisco, CA 94105 and Bayer Corporation, Agriculture Division, 8400 Hawthorn Road, P.O. Box 4913, Kansas City, MO 64120–0013 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerances for residues of N-(2,3-dichloro-4-hydroxyphenyl)-1-methyl-cyclohexanecarboxamide (TM–402 or fenhexamid) in or on the raw agricultural commodities almond nutmeat at 0.02 parts per million (ppm), almond hulls at 2.0 ppm, and stone fruit at 5.0 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. A lactating goat was dosed at 10 milligrams (mg) ^{14}C–TM–402 per killograms/bodyweight (kg/bwt) on 3 consecutive days at 24-hour intervals. TM–402 was rapidly and almost completely absorbed and was rapidly distributed and eliminated (24.9% in urine, 38.6% in feces, and 0.03% in milk). The half-life of biliary-fecal elimination (primary pathway) was 0.5 hours. The primary residues in tissues were unreacted TM–402, its glucuronide derivative and the 4-hydroxy derivative. Since almond and stone fruit commodities are not significant poultry feeds, discussion of nature-of-the residue in the hen is not required. The nature-of-the-residue in crops was determined to be primarily unreacted TM–402 in apples, grapes, and tomatoes.

2. *Analytical method*. An adequate method for purposes of enforcement of the proposed TM–402 tolerances in plant commodities is available. Bayer AG Analytical Method No. 00362 was used by Tomen Agro to determine magnitude of TM–402 residues in almond nutmeat, almond hulls, cherries, peaches, and plums. This method has been independently validated for grapes. The limit of quantitation (LOQ) was determined to be 0.02 ppm in almond nutmeat.

3. *Magnitude of residues*. The maximum TM–402 residues in almond nutmeat permitted by the proposed label is 0.02 ppm. TM–402 residue in all almond nutmeat samples resulting from treatment of growing almonds was < 0.02 ppm (< the level of detection (LOD). The maximum TM–402 residue in almond hulls permitted by the proposed label is 2.0 ppm. The average TM–402 residues for almond hulls resulting from the treatment of growing almonds permitted by the proposed label are 0.7 ppm. The maximum TM–402 residue for fresh stone fruit permitted by the proposed label is 5.0 ppm. The average TM–402 residue resulting from the proposed treatment of growing stone fruit was 1.9 ppm in cherries, 1.3 ppm in peaches, and 0.10 ppm in plums. Calculated TM–402 residues in meat and milk are

significantly below < 0.01 ppm. Since no aquatic uses are proposed, magnitude of the residue data in fish and irrigated crops are not required.

B. Toxicological Profile

1. *Acute toxicity*. Data from a complete battery of acute toxicity studies for TM–402 technical are available. The acute oral toxicity study resulted in an LD_{50} of > 5,000 mg/kg for both sexes. The acute dermal toxicity in rats resulted in an LD_{50} of greater than 5,000 mg/kg for both sexes. The acute inhalation was investigated in two studies in rats. Inhalation by aerosol at the maximum technically possible concentration of 0.322 milligram/liter (mg/L) resulted in no deaths or symptoms (LC_{50} > 0.322 mg/L). A dust inhalation study resulted in an LC_{50} > 5.057 mg/L. TM–402 was not irritating to the skin or eyes after a 4-hour exposure period. The Buehler dermal sensitization study in guinea pigs indicated that TM–402 is not a sensitizer. Based on these results TM–402 technical is placed in toxicity Category IV and does not pose any acute dietary risks.

2. *Genotoxicty*. The potential for genetic toxicity of TM–402 was evaluated in six assays including two Ames tests, an HGPRT forward mutation assay, a unscheduled DNA synthesis (UDS) assay, an *in vitro* chromosomal aberration assay in chinese hamster ovary (CHO) cells, and a micronucleus test in mice. The compound was found to be devoid of any mutagenic activity in each of these assays including those tests that investigated the absence or presence of metabolic activating systems. The weight of evidence indicates that TM–402 technical does not pose a risk of mutagenicity or genotoxicity.

3. *Reproductive and developmental toxicity*. TM–402 has been tested for reproductive toxicity in rats and developmental toxicity in both rats and rabbits.

i. In a 2-generation reproduction study (one mating per generation), 30 Sprague-Dawley rats per sex per dose were administered 0, 100, 500, 5,000, or 20,000 ppm of TM–402 in the diet. The reproductive toxicity no observed adverse effect level (NOAEL) was 20,000 ppm. The neonatal NOAEL was 500 ppm, and the lowest observed adverse effect level (LOAEL) was 5,000 ppm based on decreased pup body weight. The parental toxicity NOAEL was 500 ppm based on lower adult pre-mating body weights at 5,000 and 20,000 ppm, lower gestation body weights at 20,000 ppm, lower lactation body weights at 5,000 and 20,000 ppm, and statistically significant changes in clinical chemistry parameters, terminal body weights, and organ weights at 5,000 and 20,000 ppm. Based on this study, it is clear that the only toxic effects in the neonates occurred at parentally toxic doses.

ii. In rats, TM–402 was administered by gavage at doses of 0 or 1,000 mg/kg for gestation days 6–15. No maternal toxicity, embryotoxicity, fetotoxicity, or teratogenic effects were observed at the limit dose of 1,000 mg/kg/day. Therefore, the NOAEL for maternal and developmental toxicity was 1,000 mg/kg/day.

iii. In rabbits, TM–402 was administered by gavage at doses of 0, 100, 300, and 1,000 mg/kg for gestation days 6–18. Body weight gain and feed consumption of the dams were reduced at the two top doses. One abortion occurred in each of the top two dose groups and two total resorptions occurred in the top dose group. The placental weights were slightly decreased at 300 mg/kg/day and above. In the 1,000 mg/kg/day group, slightly decreased fetal weights and a slightly retarded skeletal ossification were observed. All other parameters investigated in the study were unaffected. Therefore, the NOAELs for maternal and developmental toxicity were 100 mg/kg/day in this study.

Based on the 2-generation reproduction study in rats, TM–402 is not considered a reproductive toxicant and shows no evidence of endocrine effects. The data from the developmental toxicity studies on TM–402 show no evidence of a potential for developmental effects (malformations or variations) at doses that are not maternally toxic. The NOAEL for both maternal and developmental toxicity in rats was 1,000 mg/kg/day, and for rabbits the NOAEL for both maternal and developmental toxicity was 100 mg/kg/day.

4. *Subchronic toxicity*. The subchronic toxicity of TM–402 has been evaluated in rats, mice, and dogs.

i. TM–402 was administered in the diet to rats for 13 weeks at doses of 0, 2,500, 5,000, 10,000, and 20,000 ppm. The NOAEL was 5,000 ppm (415 mg/kg/day in males and 549 mg/kg/day in females). Reversible liver effects were observed at 10,000 ppm.

ii. TM–402 was administered in the diet to mice for approximately 14 weeks at doses of 0, 100, 1,000, and 10,000 ppm. The NOAEL was 1,000 ppm (266.6 mg/kg/day in males and 453.9 mg/kg/day in females). Increased feed and water consumption and kidney and liver effects were observed at 10,000 ppm.

iii. TM–402 was administered in the diet to beagle dogs for 13 weeks at doses of 0, 1,000, 7,000, and 50,000 ppm. The NOAEL was 1,000 ppm (33.9 mg/kg/day in males and 37.0 mg/kg/day in females). Increased Heinz bodies were observed at 7,000 ppm.

5. *Chronic toxicity*. The chronic toxicity of TM–402 has been evaluated in a 1-year dog study and a 2-year chronic toxicity/oncogenicity study in rats.

i. TM–402 was administered in the feed at doses of 0, 500, 3,500, or 25,000 ppm to 4 male and 4 female beagle dogs per group for 52 weeks. A systemic NOAEL of 500 ppm (an average dose of 17.4 mg/kg/day over the course of the study) was observed based on decreased food consumption and decreased body weight gain at 25,000 ppm, decreased erythrocyte, hemoglobin and hematocrit values at 25,000 ppm, increased Heinz bodies at 3,500 ppm and above, and a dose-dependent increase of alkaline phosphatase at 3,500 ppm and above. There were no treatment related effects on either macroscopic or histologic pathology.

ii. A combined chronic/oncogenicity study was performed in Wistar rats. Fifty animals/sex/dose were administered doses of 0, 500, 5,000, or 20,000 ppm for 24 months in the feed. A further 10 animals/sex/group received the same doses and were sacrificed after 52 weeks. The doses administered relative to body weight were 0, 28, 292, or 1,280 mg/kg/day for males and 0, 40, 415, or 2,067 mg/kg/day for females. The NOAEL in the study was 500 ppm (28 mg/kg/day for males and 40 mg/kg/day for females) based on body weight decreases in females at 5,000 ppm and above, changes in biochemical liver parameters in the absence of morphological changes in both sexes at 5,000 ppm and above, and caecal mucosal hyperplasia evident at 5,000 ppm and above.

The NOAEL in the chronic dog study was 17.4 mg/kg/day based on body weight, hematology and clinical chemistry effects. The lowest NOAEL in the 2-year rat study was determined to be 28 mg/kg/day based on body weight, clinical chemistry parameters in the liver, and caecal mucosal hyperplasia.

6. *Oncogenicity*. The oncogenic potential of TM–402 has been in a 2-year oncogenicity study in mice and a 2-year chronic toxicity/oncogenicity study in rats.

i. In mice, TM–402 was administered to 50 sex/group in their feed at concentrations of 0, 800, 2,400, or 7,000 ppm for 24 months. These concentrations resulted in a compound intake of 247.4, 807.4, or 2,354.8 mg/kg/

day in males and 364.5, 1,054.5, and 3,178.2 mg/kg/day in females. A further 10 mice/sex/group received the same concentrations and were sacrificed after 12 months. There was no treatment effect on mortality, feed consumption, the hematological system or on the liver. Water consumption was increased in both sexes, and body weights were 8% lower in males at the highest dose of 7,000 ppm. At 7,000 ppm, elevated plasma creatinine concentrations, decreased kidney weights, and an increased occurrence of morphological lesions indicated a nephrotoxic effect of the compound. There was no shift in the tumor spectrum with treatment, and therefore, TM–402 was not oncogenic in this study.

ii. In the 2-year rat chronic/oncogenicity study described above, there was no indication of an oncogenic response. There was no indication of an oncogenic response in the 2-year rat and mouse studies on TM–402.

7. *Neurotoxicity*. The possibility for acute neurotoxicity of TM–402 was investigated. TM–402 was administered by gavage in a single dose to 12 Wistar rats/sex/group at doses of 0, 200, 630, 2,000 mg/kg. There was no evidence of neurotoxicity at any level tested.

8. *Endocrine disruption*. TM–402 has no endocrine-modulation characteristics as demonstrated by the lack of endocrine effects in developmental, reproductive, subchronic, and chronic studies.

C. Aggregate Exposure

1. *Dietary exposure*—i. *Food*. Dietary exposure to TM–402 are limited to the established tolerances for residues of TM–402 on grapes at 4.0 ppm, raisins at 6.0 ppm, and strawberries at 3.0 ppm, and the proposed tolerances in the current submission which are as follows: almond nutmeat 0.02 ppm; almond hulls 2.0 ppm, and stone fruit 5.0 ppm.

ii. *Drinking water*. Review of the environmental fate data indicates the TM–402 is relatively immobile and rapidly degrades in the soil and water. TM–402 dissipates in the environment via several processes. Therefore, a significant contribution to aggregate risk from drinking water is unlikely.

2. *Non-dietary exposure*. There is no significant potential for non-occupational exposure to the general public. The proposed uses are limited to agricultural and horticultural use.

D. Cumulative Effects

Consideration of a common mechanism of toxicity is not appropriate at this time since there is no significant toxicity observed for TM–402. Even at toxicology limit doses, only minimal toxicity is observed for TM–402. Therefore, only the potential risks of TM–402 are considered in the exposure assessment.

E. Safety Determination

1. *U.S. population*. Based on the most sensitive species, Tomen Agro has calculated an appropriate reference dose (RfD) for TM–402. Using the NOAEL of 17.4 mg/kg/day in the 1-year dog study and an uncertainty factor (UF) of 100 to account for interspecies and intraspecies variability, an RfD of 0.174 mg/kg/day is recommended.

A chronic dietary risk assessment which included all tolerances was conducted on TM–402 using U.S. EPA's Dietary Risk Evaluation System (DRES). The theoretical maximum residue contribution (TMRC) for the U.S. population (48 contiguous States) is 0.0031 mg/kg/day and this represents 1.7% of the proposed RfD. The most highly exposed subgroup was non-nursing infants (< 1-year old) where the TMRC was 0.017 mg/kg/day, representing only 9.6% of the proposed RfD. For nursing infants (< 1-year old) the TMRC was 0.0088 mg/kg/day (5.0% of the RfD). For children (1–6 years old) the TMRC was 0.0078 mg/kg/day (4.4% of the RfD), and for children 7–12 years old the TMRC is 0.0040 mg/kg/day (2.3% of the RfD). If these calculations consider the average of anticipated residue values instead of assuming ''tolerance level'' residues, the values are reduced to approximately one-forth of those listed above. Even under the most conservative assumptions, the estimates of dietary exposure clearly demonstrate adequate safety margins of all segments of the population.

2. *Infants and children*. In assessing the potential for additional sensitivity of infants and children to residues of TM–402, the available developmental toxicity and reproductive toxicity studies and the potential for endocrine modulation by TM–402 were considered. Developmental toxicity studies in two species indicate that TM–402 does not impose additional risks to developing fetuses and is not a teratogen. The 2–generation reproduction study in rats demonstrated that there were no adverse effects on reproductive performance, fertility, fecundity, pup survival, or pup development at non-maternally toxic levels. Maternal and developmental NOAELs and LOAELs were comparable, indicating no increase in susceptibility of developing organisms. No evidence of endocrine effects was noted in any study. It is therefore, concluded that TM–402 poses no additional risk for infants and children and no additional uncertainty factor is warranted.

F. International Tolerances

There are no established maximum residue levels established for fenhexamid by the Codex Alimentarius Commission.

[FR Doc. 00–4421 Filed 2–24–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–50866; FRL–6492–1]

Experimental Use Permit; Cry1F Bt Corn Receipt of Amendment/Extension Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application 68467–EUP–2 from Mycogen c/o Dow Agrosciences LLC requesting an experimental use permit (EUP) for the *Bacillus thuringiensis* Cry1F protein and the genetic material necessary for its production (plasmid insert PHI8999) in corn plants. The Agency has determined that the application may be of regional and national significance. Therefore, in accordance with 40 CFR 172.11(a), the Agency is soliciting comments on this application.

DATES: Comments, identified by docket control number OPP–50866, must be received on or before March 27, 2000.

ADDRESSES: Comments and data may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the ''SUPPLEMENTARY INFORMATION.'' To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–50866 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Mike Mendelsohn, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8715; and e-mail address: mendelsohn.mike@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be

of interest to those persons interested in plant-pesticides or who are or may be required to conduct testing of chemical substances under the Federal Food, Drug and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under ''FOR FURTHER INFORMATION CONTACT.''

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**--Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–50866. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall 2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–50866 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically* . You may submit your comments electronically by e-mail to: ''opp-docket@epa.gov,'' or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–50866. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under ''FOR FURTHER INFORMATION CONTACT.''

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

EPA has received an application from Mycogen c/o Dow Agrosciences LLC, 9330 Zionsville Road, Indianapolis, IN 46268–1054, for an extension/amendment of their EUP for *Bacillus thuringiensis* Cry1F protein and the genetic material necessary for its production (plasmid insert PHI8999) in corn plants (68467–EUP–2). Notice of the original issuance of this EUP was published in the **Federal Register** on May 5, 1999 (64 FR 24161) (FRL–6078–2). The new program extends testing to March 31, 2001 and increases the acreage to 809 acres. Field testing is to take place in: Alabama, Colorado, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Puerto Rico, South Dakota, Tennessee, Texas, and Wisconsin. All corn will be grown under isolation. Plant material and seed produced will be destroyed or used for experimental use purposes only.

III. What Action is the Agency Taking?

Following the review of the Mycogen c/o Dow Agrosciences LLC application and any comments and data received in response to this notice, EPA will decide whether to issue or deny the EUP request for this EUP program, and if issued, the conditions under which it is

to be conducted. Any issuance of an EUP will be announced in the **Federal Register**.

IV. What is the Agency's Authority for Taking this Action?

The Agency's authority for taking this action is under FIFRA section 5.

List of Subjects

Environmental protection, Experimental use permits.

Dated: February 11, 2000.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 00–4607 Filed 2–24–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–400143; FRL–6492–5]

Workshop Schedules for EPCRA/TRI Training

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will conduct EPCRA/TRI Training workshops across the country during the spring of 2000. These workshops are intended to assist persons preparing their annual reports on release and other waste management activities as required under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) and section 6607 of the Pollution Prevention Act of 1990 (PPA). These reports must be submitted to EPA and designated state officials on or before July 1, 2000.

FOR FURTHER INFORMATION CONTACT: Michael Hart, (202) 260–1576 or hart.michael@epa.gov, for specific information on this notice, or to register for training, contact SAIC (http://www.EPCRA-TRI.com; e-mail: Training@EPCRA-TRI.com; fax: (703) 318–4644; or telephone: (703) 318–4504).

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

You may find this notice applicable if you manufacture, process, or otherwise use any EPCRA section 313 listed toxic chemical. Potentially applicable categories and entities may include, but are not limited to:

Category	Examples of regulated entities
Industry	Metal mining, coal mining, manufacturing, electricity generating facilities, hazardous waste treatment/TSDF, chemicals and allied products-wholesale, petroleum bulk plants and terminals, and solvent recovery services
Federal Government	Federal facilities

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to find this notice of training course offerings applicable. Other types of entities not listed in the table may also find this notice applicable. To determine whether your facility could find this notice applicable, you should carefully examine the applicability criteria in part 372 subpart B of Title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section. You may be able to take advantage of the training courses if:

- Your facility is a facility covered under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA).
- Your facility is a Federal facility that manufactures, processes, or otherwise uses section 313 listed toxic chemicals.
- You prepare annual release and other waste management activity reports (i.e., Form R).
- You prepare Form A certification statements.
- You are a consultant who assists in the preparation of these reports.
- You would like information on recent changes to EPCRA/TRI regulations.

EPA conducts annual training courses to assist you with your reporting requirements under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) and section 6607 of the Pollution Prevention Act of 1990 (PPA) or Executive Order 12856 (for Federal facilities). You must submit your annual release and other waste management activity reports (i.e., Form R) if your facility meets the descriptions for the following Standard Industrial Classification (SIC) codes and qualifiers:

- Metal Mining (SIC Code 10, except 1011, 1081, and 1094).
- Coal Mining (SIC Code 12, except 1241).
- Manufacturing (SIC Codes 20-39).
- Electricity Generating Facilities (SIC Codes 4911, 4931, and 4939--limited to facilities that combust coal and/or oil for the purpose of generating electricity for distribution in commerce).
- Hazardous Waste Treatment/TSDF (SIC Code 4953 - limited to facilities regulated under RCRA subtitle C, 42 U.S.C. section 6921 *et seq.*).
- Chemicals and Allied Products (SIC Code 5169).
- Petroleum Bulk Plants and Terminals (SIC Code 5171).
- Solvent Recovery (SIC Code 7389 - limited to facilities primarily engaged in solvents recovery services on a contract or fee basis).
- Federal Facilities (by Executive Order 12856).

II. What is Presented at These Training Courses?

The training courses present reporting requirements of EPCRA section 313 and PPA section 6607. A variety of hands-on exercises using the reporting forms (i.e., Form R) along with supporting materials will be used to help you understand any reporting obligations you might have under EPCRA section 313. The training courses are scheduled in the spring so that you can prepare and submit your report(s) for the Reporting Year 1999 on or before July 1, 2000.

III. How Much Time is Required for the Training?

The full training course runs 2 days and a schedule for the 2–day workshops is provided below (see Table 1 under Unit IV.). The first day is devoted to a general discussion of EPCRA section 313 and PPA section 6607 reporting requirements with exercises used to reinforce key concepts. Beginning the second day, an update on the TRI Program will begin. Interested persons may register for both days (persons with little or no background in EPCRA section 313 and PPA section 6607 reporting requirements) or just the second day (persons experienced in preparing either Form R or Form A). In addition, EPA is conducting abbreviated training courses. These courses are 1 day in duration and, in some cases, are focused for a particular industry sector(s) (see Table 2 under Unit IV.).

IV. When are These Training Courses Offered and How Do I Register?

The schedules for training courses are provided in the tables below. You should note, however, that changes to the schedules may occur without further notice so it is important to check your registration materials and confirmation notice. Also, you may access current training course schedule information via the TRI Home Page (http://www.epa.gov/tri).

You should direct your requests for training course registration materials, including schedules of dates and locations, to SAIC (http://www.EPCRA-TRI.com; e-mail: Training@EPCRA-TRI.com; fax: (703) 318–4644; or telephone: (703) 318–4504).

To register, you must provide all of the following information to the registration contact indicated: your name, your company's name and SIC code, your postal address, your telephone number, your fax number, your e-mail address, and your preferred training location(s). Requests for registration applications should be directed to the indicated registration contact.

You will receive an acknowledgment of application receipt via fax or e-mail. If your application is accepted, a confirmation notice will be sent to you that will contain important information regarding date, location, directions, etc. If the training course you applied for is filled or canceled, alternate training courses will be suggested. Since space is limited, you are encouraged to submit your registration application as early as possible but not less than 1 week before your preferred training course.

Table 1.—EPCRA/TRI Training: Spring 2000 2-Day Workshop Schedule [1]

Date	Location	Registration Contact
March 9-10	Columbus, OH	SAIC
March 16-17	Honolulu, HI	SAIC
March 20-21	San Francisco, CA	SAIC
April 3-4	Newington, CT	SAIC
April 3-4	Dallas, TX	SAIC
April 4-5	Boston, MA	SAIC
April 4-5	Houston, TX	SAIC
April 12-13	Roanoke, VA	SAIC
April 13-14	New York, NY	SAIC
April 17-18	Atlanta, GA	SAIC
April 19-20	Salt Lake City, UT	SAIC
April 20-21	Mobile, AL	SAIC
May 1-2	Charlotte, NC	SAIC
May 3-4	Knoxville, TN	SAIC
May 11-12	Kansas City, KS	SAIC
May 11-12	Portland, OR	SAIC
May 15-16	Reno, NV	SAIC
May 17-18	Seattle, WA	SAIC
May 18-19	Phoenix, AZ	SAIC
May 22-23	Atlanta, GA	SAIC
May 24-25	Philadelphia, PA	SAIC
May 24-25	Louisville, KY	SAIC
June 1-2	Los Angeles, CA	SAIC
June 5-6	Ann Arbor, MI	SAIC
June 7-8	Chicago, IL	SAIC

[1] This schedule may change without further notice. A schedule reflecting any changes to this notice will be posted at http://www.epa.gov/tri.

Table 2.—Schedule for Other EPCRA/TRI Workshops [1]

Date	Location	Registration Contact
February 23	Denver, CO [2]	Jack Salter, USEPA Region 8
February 24	Denver, CO [3]	Jack Salter, USEPA Region 8
February 28-29	Reno, NV	Scott Alquist, TMCC
March 6-7	Las Vegas, NV	Scott Alquist, TMCC
March 9-10	Carson City, NV	Scott Alquist, TMCC
March 21	Salt Lake City, UT [2]	Jack Salter, USEPA Region 8
March 22	Salt Lake City, UT [3]	Jack Salter, USEPA Region 8
March 23	Redding, CA	SAIC
April 12	Edison, NJ	SAIC
April 12	Denver, CO [2]	Jack Salter, USEPA Region 8
April 17	Sioux Falls, SD	SAIC
April 19	Richmond, VA	Chris Weber
April 19	Atlanta, GA (DOD)	SAIC
April 21	Casper, WY	SAIC
April 25	Charleston, WV	Jan Taylor
April 25	Omaha, NE	Stephen Wurtz, USEPA Region 7
April 26	Cleveland, OH	Fran Guido, USEPA Region 5
April 27	Cedar Rapids, IA [4]	Stephen Wurtz, USEPA Region 7
April 28	St. Charles/St. Louis, MO [4]	Stephen Wurtz, USEPA Region 7
May 2	Buffalo, NY	SAIC
May 2	Baltimore, MD	Chris Weber
May 2	Chicago, IL	Fran Guido, USEPA Region 5
May 4	Syracuse, NY	SAIC
May 4	Hagerstown, MD	Chris Weber
May 4	Indianapolis, IN	Fran Guido, USEPA Region 5
May 9	Pittsburg, PA	Chris Weber
May 10	Wichita, KS	Stephen Wurtz, USEPA Region 7
May 11	Flint, MI	Fran Guido, USEPA Region 5
May 15	Spokane, WA	SAIC
May 16	Pittston, PA	Len Carlin
May 18	Minnetonka, MN	Fran Guido, USEPA Region 5
May 22	Atlantic City, NJ	SAIC
May 25	Green Bay, WI	Fran Guido, USEPA Region 5
May 30	Philadelphia, PA	Chris Weber
May 30	San Diego, CA	SAIC
May 31	San Bernardino, CA	SAIC

[1] This schedule may change without further notice. A schedule reflecting any changes from this notice will be posted at http://www.epa.gov/tri.
[2] Manufacturing and select new industries only.
[3] Mining and Electricity Generating Facilities only.
[4] Registration fee may be required for these workshops.

Table 3.—Registration Contacts

Contact	Telephone	Fax	E-mail/Web Site
Scott Alquist TMCC	(775) 829–9000	none	none
Len Carlin EDC of NE PA	(570) 655–5581	none	none
Fran Guido USEPA Region 5	(312) 886–4348	none	none
Dan Roe Executive Director AZ ERC	(602) 231–6346	none	http://dem.state.az.us/azserc/GK2000Main.htm
Jack Salter USEPA Region 8	(303) 312–6026	none	http://www.epa.gov/region08/epcra/epcra.html
Jan Taylor NICS	(304) 346–6264	none	none
Chris Weber Tascon, Inc.	(301) 315–9000 ext. 5100	none	none
Stephen Wurtz USEPA Region 7	(913) 551–7680	(913) 551–5021	luce.judy@epa.gov
SAIC	(703) 318–4504	(703) 318–4644	Training@EPCRA-TRI.com or http://www.EPCRA-TRI.com

V. How Much Will the Training Course Cost?

There is no registration fee for the 2–day EPCRA/TRI Training courses; however, there may be a registration fee for other EPCRA/TRI workshops (check with the registration contact for fees and further information). You may access information regarding registration fees via the TRI Home Page (http://www.epa.gov/tri) or by contacting the respective Registration Contact listed above (see Table 3 under Unit IV.). If there is insufficient interest at any of the training course locations, those courses may be canceled. The Agency bears no responsibility for your decision to purchase non-refundable transportation tickets or accommodation reservations.

List of Subjects

Environmental protection, Community right-to-know, Reporting and recordkeeping requirements, Toxics Release Inventory.

Dated: February 15, 2000.

Alvin Pesachowitz,

Associate Assistant Administrator, Office of Environmental Information.

[FR Doc. 00–4422 Filed 2–24–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51941; FRL–6494–1]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from January 1, 2000 to January 14, 2000, consists of the PMNs and TMEs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the ''SUPPLEMENTARY INFORMATION.'' To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–51941 and the specific PMN number in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Joe Carra, Deputy Director, Office of Pollution Prevention and Toxics (7401), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone numbers: (202) 554–1404 and TDD: (202) 554–0551; e-mail address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain copies of this document and certain other available documents from the EPA Internet Home Page at *http://www.epa.gov/*. On the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

2. *In person*. The Agency has established an official record for this action under docket control number OPPTS–51941. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–51941 and the specific PMN number in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: OPPT Document Control Office (DCO) in East Tower Rm. G–099, Waterside Mall, 401 M St., SW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 260–7093.

3. *Electronically*. You may submit your comments electronically by e-mail to: ''oppt.ncic@epa.gov,'' or mail your computer disk to the address identified in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPPTS–51941 and the specific PMN number. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under ''FOR FURTHER INFORMATION CONTACT.''

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice or collection activity.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Why is EPA Taking this Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from January 1, 2000 to January 14, 2000, consists of the PMNs and TMEs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Report for PMNs

This status report identifies the PMNs and TMEs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available.

In table I, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

I. 75 PREMANUFACTURE NOTICES RECEIVED FROM: 1/1/00 TO 1/14/00

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–00–0389	01/03/00	04/02/00	CBI	(G) Coating component	(G) Modified polyisocyanate
P–00–0392	01/05/00	04/04/00	Wacker Silicones Corp.	(S) Plasters; building adhesive; hydrophobic coatings	(S) Neodecanoic acid, ethenyl ester, polymer with ethene and ethenyl acetate*
P–00–0393	01/04/00	04/03/00	Finetex, Inc.	(S) Textile fiber lubricant with high thermal stability, dispersant for tilanium doxide, zinc oxide, pigments, etc. plasticizer for selected polymer systems requiring high thermal stability	(S) Isostearyl benzoate*
P–00–0394	01/06/00	04/05/00	Johnson Polymer	(G) Open, non-dispersive use.	(G) Acrylic emulsion polymer
P–00–0395	01/07/00	04/06/00	CBI	(S) A radiation curable coating for industrial use	(G) Urethane acrylate
P–00–0396	01/10/00	04/09/00	Eastman Chemical company	(S) Plastic additive	(G) Substituted phthalocyanine dye
P–00–0397	01/07/00	04/06/00	E.I. Du Pont De Nemours and Co.	(S) Use or process in enclosed systems; electronic industry cleaning solvent; other precision industry cleaning; paint stripping; metal cleaning and degreasing; ink formulations; adhesives; pigment dispersions; emulsifiable concentrate solvent; wetting agent and/or surfactant; coating agent for polymer emulsion coatings; hydrocarbon extraction; polymer synthesis; wire enamel resin; optics; aerospace; other defense industry; automotive manufacturing and similar	(S) 2-piperidinone,1,3-dimethyl-*
P–00–0398	01/07/00	04/06/00	E.I. Du Pont De Nemours and Co.	(S) Use or process in enclosed systems; electronic industry cleaning solvent; other precision industry cleaning; paint stripping; metal cleaning and degreasing; ink formulations; adhesives; pigment dispersions; emulsifiable concentrate solvent; wetting agent and/or surfactant; coating agent for polymer emulsion coatings; hydrocarbon extraction; polymer synthesis; wire enamel resin; optics; aerospace; other defense industry; automotive manufacturing and similar	(S) 2-piperidinone,1,5-dimethyl-*
P–00–0399	01/10/00	04/09/00	Englehard Corporation	(S) A colorant for plastics	(G) Disazo yellow
P–00–0400	01/10/00	04/09/00	CBI	(G) Dye used in Thermal ink Jet Printer	(S) 2,7-naphthalenedisulfonic acid, 6-amino-4-hydroxy-3-[[7-sulfo-4-[(4-sulfophenyl) azo]-1-naphthalenyl]azo]-, compd. with 2,2¼,2 ¼¼- nitrilotris [ethanol] (1:4) *
P–00–0401	01/10/00	04/09/00	Reichhold, Inc.	(S) Pigment dispersion carrier	(G) Polyester resin
P–00–0402	01/11/00	04/10/00	CBI	(S) Resin for printing inks (offset printing)	(S) Fatty acids, $C_{14–18}$ and $C_{16–18}$-unsatd., polymers with isophthalic acid and trimethylolpropane*
P–00–0403	01/11/00	04/10/00	CBI	(S) Polyurethane raw material	(S) Poly[oxy (methyl-1,2-ethanediyl)], α-hydro-omega-hydroxy-, ether with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol*
P–00–0404	01/11/00	04/10/00	CBI	(S) Polyurethane raw material	(S) Fatty acids, C_{18}-unsatd., dimers, di-me esters, hydrogenated, polymd.
P–00–0405	01/12/00	04/11/00	CBI	(G) Processing aid	(S) Benzenesufonic acid, bis (1-methylethyl)-, sodium salt*
P–00–0406	01/12/00	04/11/00	CBI	(S) Metalworking lubricant on the preparation of wire & cable	(G) Calcium fatty acid complex.
P–00–0407	01/12/00	04/11/00	CBI	(S) Metalworking lubricant on the preparation of wire & cable	(G) Calcium fatty acid complex.
P–00–0408	01/12/00	04/11/00	CBI	(S) Metalworking lubricant on the preparation of wire & cable	(G) Calcium fatty acid complex.

I. 75 PREMANUFACTURE NOTICES RECEIVED FROM: 1/1/00 TO 1/14/00—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–00–0409	01/12/00	04/11/00	CBI	(S) Metalworking lubricant on the preparation of wire & cable	(G) Calcium fatty acid complex.
P–00–0410	01/12/00	04/11/00	CBI	(S) Metalworking lubricant on the preparation of wire & cable	(G) Calcium fatty acid complex.
P–00–0411	01/12/00	04/11/00	CBI	(S) Metalworking lubricant on the preparation of wire & cable	(G) Calcium fatty acid complex.
P–00–0412	01/12/00	04/11/00	CBI	(S) Metalworking lubricant in the preparation of wire & cable	(G) Calcium fatty acid complex
P–00–0413	01/12/00	04/11/00	CBI	(S) Metalworking lubricant in the preparation of wire & cable	(G) Calcium fatty acid complex
P–00–0414	01/12/00	04/11/00	CBI	(S) Metalworking lubricant in the preparation of wire & cable	(G) Calcium fatty acid complex
P–00–0415	01/12/00	04/11/00	CBI	(S) Metalworking lubricant in the preparation of wire & cable	(G) Calcium fatty acid complex
P–00–0416	01/12/00	04/11/00	CBI	(S) Metalworking lubricant in the preparation of wire & cable	(G) Calcium fatty acid complex
P–00–0417	01/12/00	04/11/00	CBI	(S) Metalworking lubricant in the preparation of wire & cable	(G) Calcium fatty acid complex
P–00–0418	01/18/00	04/17/00	CIBA Specialty Chemicals Corp.	(S) Hardener for protective epoxy coatings for metal surfaces; hardener for epoxy coatings for flooring or walls	(G) Alkyl amides, from tetraethylenepentamine
P–00–0419	01/14/00	04/13/00	CBI	(G) Copying material for printers and copiers	(G) Polycarbonate polyester
P–00–0420	01/18/00	04/17/00	CBI	(G) Colorant	(G) Aromatic compound derivative
P–00–0421	01/18/00	04/17/00	CBI	(G) Pigment dispersant	(G) High molecular polymer with amino group
P–00–0422	01/18/00	04/17/00	CBI	(G) Coating component	(G) Non-volatile emulsion acrylic polymer
P–00–0423	01/18/00	04/17/00	King Industries, Inc.	(S) Corrosion inhibitor for industrial lubricants; corrosion inhibitor for rust preventive coatings	(G) Dinonylnaphthalenesulfonic acid compound with amine
P–00–0424	01/18/00	04/17/00	King Industries, Inc.	(S) Corrosion inhibitor for industrial lubricants; corrosion inhibitor for rust preventive coatings	(G) Dinonylnaphthalenesulfonic acid compound with amine
P–00–0425	01/19/00	04/18/00	Henkel Corp., Chemicals Group	(G) Dispersing agent	(S) Propanoic acid, 3-hydroxy-2-(hydroxymethyl)-2-methyl-, polymer with 2,2¼-[1,4-butanediylbis(oxymethylene)] bis [oxirane], dihydro-3-(tetrapropenyl)-2,5-furandione and α-hydro-omega-hydroxypoly (oxy-1,2-ethanediyl), compd. with 2-(dimethylamino) ehthanol*
P–00–0426	01/18/00	04/17/00	DMC-2, L.P.	(S) Flux paste used for brazing	(G) Inorganic acid reaction product, with alkaline flouride metal salts
P–00–0427	01/11/00	04/10/00	CBI	(G) Semiconductor coatings component	(G) Hydrolyzed alkoxysilane
P–00–0428	01/11/00	04/10/00	CBI	(G) Semiconductor coatings component	(G) Hydrolyzed alkoxysilane
P–00–0429	01/18/00	04/17/00	Dyneon LLC	(S) Fluoroelastomer for making molded parts	(G) Fluoroelastomer
P–00–0430	01/18/00	04/17/00	CBI	(G) Softener	(G) Quaternized ammonium salt
P–00–0431	01/19/00	04/18/00	Eastman Kodak Company	(G) Contained use in an article	(G) Substituted alicyclic alkenyl benz[e]indolium salt
P–00–0432	01/19/00	04/18/00	Henkel Adhesives - A Henkel Corporation Group	(S) Hot melt adhesive designed for molding/potting.; general hot melt adhesive	(S) Fatty acids, C_{18}-unsatd., dimers, polymers with ethylenediamine, piperazine, polypropylene glycol diamine and sebacic acid*
P–00–0433	01/18/00	04/17/00	CBI	(G) Pigment dispersant	(G) Amine neutralized phosphated polyester
P–00–0434	01/24/00	04/23/00	CBI	(S) Grease thickner	(G) Alkyl substituted urea
P–00–0435	01/24/00	04/23/00	CBI	(S) Chemical intermediate	(G) Aminoalkyl polydimethylsiloxane
P–00–0436	01/21/00	04/20/00	CBI	(G) Adhesive for Flexible Substrates	(G) Polyester polyurethane
P–00–0437	01/21/00	04/20/00	CBI	(G) Adhesive for Flexible Substrates	(G) Polyester polyurethane

I. 75 PREMANUFACTURE NOTICES RECEIVED FROM: 1/1/00 TO 1/14/00—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–00–0438	01/21/00	04/20/00	CIBA Specialty Chemicals Corporation	(S) Hardener for epoxy dielectric insulation hardener for pipe bonding	(S) Oxiranemethanamine, *n,n*¼-(methylenedi-4,1-phenylene) bis [*n*-(oxiranylmethyl)-, polymer with 4,4¼-methylenebis [2-methylcyclohexanamine]*
P–00–0439	01/21/00	04/20/00	CBI	(G) Oilfield polymer	(G) Polymer of acrylamido alkyl propane sulfonic acid ammonium salt and two acrylic monomers
P–00–0440	01/21/00	04/20/00	CBI	(G) Open non-dispersive (polyester resin)	(G) Polyester resin
P–00–0441	01/24/00	04/23/00	CBI	(G) Oil field additive	(G) Alkyl glyceryl ether sulphonate
P–00–0442	01/24/00	04/23/00	CBI	(G) Fertilizer	(G) Zinc ammonium phosphate
P–00–0443	01/24/00	04/23/00	The Dow Chemical Company	(G) Fuel additive and chemical intermediate	(G) Alkaryl polyoxyalkylene derivative
P–00–0444	01/24/00	04/23/00	The Dow Chemical Company	(G) Fuel additive and chemical intermediate	(G) Alkaryl polyoxyalkylene derivative
P–00–0445	01/24/00	04/23/00	CBI	(G) Open, non-dispersive use;polyurethane adhesives & sealants	(G) Polyester polyol
P–00–0446	01/24/00	04/23/00	CBI	(G) Open, non-dispersive use;polyurethane adhesives & sealants	(G) Polyester polyol
P–00–0447	01/24/00	04/23/00	CBI	(G) Open, non-dispersive use;polyurethane adhesives & sealants	(G) Polyester polyol
P–00–0448	01/24/00	04/23/00	CBI	(G) Processing aid	(G) Titanium-aluminum complex on amorphous silica
P–00–0449	01/24/00	04/23/00	CBI	(G) Processing aid	(G) Titanium-aluminum complex on amorphous silica
P–00–0450	01/24/00	04/23/00	CBI	(G) Processing aid	(G) Titanium-aluminum complex on amorphous silica
P–00–0451	01/24/00	04/23/00	CBI	(G) Processing aid	(G) Titanium-aluminum complex on amorphous silica
P–00–0452	01/27/00	04/26/00	CBI	(S) Vat dye doe cellulosic fibers	(S) 3*h*-indol-3-one, 5-bomo-2-(5-bromo-1,3-dihydro-3-oxo-2*h*-indol-2-ylidene)-, 1,2-dihydro*
P–00–0453	01/27/00	04/26/00	Ashland Inc.	(G) Open, non-dispersive use in molding operations	(G) Unsaturated polyester
P–00–0454	01/28/00	04/27/00	3M	(S) Adhesive	(G) Acrylate copolymer
P–00–0455	01/28/00	04/27/00	CBI	(G) Contained use	(G) Substituted pyridimium bromides
P–00–0456	02/01/00	05/01/00	Dyneon llc	(S) Fluoroelastomer for molded parts	(G) Fluoroelastomer
P–00–0457	01/28/00	04/27/00	CBI	(G) Polymeric admixture for concrete	(G) Modified polyethercarboxylate
P–00–0458	01/28/00	04/27/00	CBI	(G) Polymeric admixture for concrete	(G) Modified polyethercarboxylate
P–00–0459	01/28/00	04/27/00	CBI	(G) Polymeric admixture for concrete	(G) Modified polyethercarboxylate
P–00–0460	01/28/00	04/27/00	CBI	(G) Polymeric admixture for concrete	(G) Modified polyethercarboxylate
P–00–0461	01/28/00	04/27/00	CBI	(G) Polymeric admixture for concrete	(G) Modified polyethercarboxylate
P–00–0462	01/28/00	04/27/00	CBI	(G) Polymeric admixture for concrete	(G) Modified polyethercarboxylate
P–00–0463	02/01/00	05/01/00	CBI	(G) Component of coating with open use	(G) Metal salt
P–00–0464	02/01/00	05/01/00	CBI	(G) Component of coating with open use	(G) Metal salt
P–00–0465	02/01/00	05/01/00	CBI	(S) Moisture curing adhesive for book assembly; moisture curing adhesive for wood laminating	(G) Isocyanate terminated urethane polymer

In table II, EPA provides the following information (to the extent that such information is not claimed as CBI) on the TMEs received:

II. 1 TEST MARKETING EXEMPTION NOTICE RECEIVED FROM: 1/1/00 TO 1/14/00

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
T–00–0001	01/07/00	02/21/00	CBI	(G) Consumer product ingredient	(G) Salt of substituted aliphatic benzenesulfonic acid

In table III, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

III. 43 NOTICES OF COMMENCEMENT FROM: 1/1/00 TO 1/14/00

Case No.	Received Date	Commencement/Import Date	Chemical
P–00–0008	01/21/00	01/07/00	(S) 2-propenoic acid, polymer with 1,3-butadiene, *n*-(hydroxymethyl)-2-propenamide and 2-propenenitrile*
P–00–0055	01/18/00	01/13/00	(G) Polyisobutylene oxime
P–00–0056	01/18/00	01/13/00	(G) Polyisobutylene oxime
P–94–0961	01/19/00	12/22/99	(G) Methylene diphenylene diisocyante (mdi) prepolymer
P–95–1214	01/03/00	12/02/99	(G) Polyether/polyester/aromatic polyurethane
P–96–0628	01/18/00	12/22/99	(G) Neutralized polyacrylic resin
P–96–1132	01/18/00	12/21/99	(G) Vinyl modified nonionic surfactant
P–98–1045	01/10/00	01/04/00	(S) Oil, canola, polymerized, oxidized*
P–98–1060	01/24/00	12/20/99	(G) Mixed vegetable oil fatty acids
P–98–1154	01/19/00	12/28/99	(G) Reaction product of ethoxylated fatty amines and ammoniummolybate
P–99–0166	01/18/00	12/20/99	(G) Acrylate functional polyester
P–99–0422	01/07/00	12/10/99	(G) (polyalkoxy, polyester) modified acrylate, reaction product with poly (cyanoalkane-alkylene glycol)
P–99–0655	01/27/00	12/23/99	(G) 2-anthracenesulfonic acid, 4-[[4-(acetylamino) phenyl]amino]-1-amino-9,10-dihydro-9,10-dioxo-, compd. with alkanol amine-alkylene oxide polymer
P–99–0751	01/24/00	01/13/00	(G) Polyester tetrafunctional acrylate
P–99–0764	01/24/00	01/10/00	(G) Ester modified melamine acrylate oligomer
P–99–0818	01/10/00	11/29/99	(G) Alkylphenol
P–99–0830	01/18/00	12/27/99	(G) Synthetic indigo solution
P–99–0890	01/27/00	12/28/99	(G) Alkanolamine carboxylate salts
P–99–0891	01/27/00	12/28/99	(G) Alkanolamine carboxylate salts
P–99–0922	01/18/00	12/23/99	(G) Polyacrylic resin
P–99–0936	01/04/00	12/17/99	(S) Fatty acids, $C_{8–10}$, reaction products with epoxidized soybean oil, ethoxylated*
P–99–1041	01/12/00	12/28/99	(G) Pyrazolotriazolyl substituted acetamide
P–99–1046	01/10/00	01/04/00	(S) Octadecanoic acid, 12-(benzoyloxy)-, 2-ethylhexyl ester (9ci) *
P–99–1051	01/03/00	12/16/99	(G) Blocked polyurethane dispersion
P–99–1070	01/10/00	12/16/99	(G) Acrylic polymer on the basis of methyl methacrylate and *n*-butyl methacrylate
P–99–1095	01/06/00	12/14/99	(G) Perfluoropolyether derivative
P–99–1101	01/19/00	01/10/00	(G) Organo silane ester
P–99–1109	01/24/00	01/12/00	(S) Alcohols, $C_{12–18}$, ethers with polyethylene glycol mono-bu ether*
P–99–1152	01/10/00	12/23/99	(G) Substituted aminophenol
P–99–1153	01/10/00	12/19/99	(G) Substituted aminophenol
P–99–1154	01/19/00	01/08/00	(G) Substituted hexanoic acids esters
P–99–1156	01/19/00	01/10/00	(G) Substituted oxazolidinedione
P–99–1181	01/18/00	12/29/99	(S) Morpholine, sulfate (2:1) *
P–99–1237	01/27/00	01/05/00	(G) Arylsulfonic acid, 2-[[6-[[4-chloro-6-[[4-[[2-(substituted]phenyl]amino]-1,3,5-triazin-2-yl]amino]-1-hydroxy-3-sulfo-2-naphthalenyl]azo]-, sodium salt
P–99–1249	01/17/00	12/14/99	(G) Polyester acrylate
P–99–1251	01/10/00	12/31/99	(G) Tin-ii-carboxylate
P–99–1296	01/12/00	12/26/99	(G) Substituted phenyl butanoic acid
P–99–1299	01/14/00	01/11/00	(G) Amino epoxy silane
P–99–1300	01/12/00	12/28/99	(G) Substituted phenyl butanoyl chloride
P–99–1316	01/19/00	12/17/99	(G) Rosin modified phenolic resin
P–99–1365	01/13/00	01/10/00	(G) Aromatic polyurethane
P–99–1370	01/17/00	01/14/00	(G) Aromatic polyester polyurethane
P–99–1387	01/18/00	01/04/00	(G) Substituted aliphatic carboxylic acid

List of Subjects

Environmental protection, Chemicals, Premanufacturer notices.

Dated: February 16, 2000.

Deborah A. Williams,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 00–4420 Filed 2–24–00; 8:45 am]

BILLING CODE 6560–50–F

OFFICE OF NATIONAL DRUG CONTROL POLICY

Notice of Meeting of Drug Free Communities Advisory Commission

SUMMARY: In accordance with the Drug-Free Communities Act, a meeting of the Drug Free Communities Advisory Commission will be held on March 7–8, 2000 in the Board Room of the Vern Riffe Center, located at 77 South High Street, 31st Floor, Columbus, Ohio. The meeting will commence at 1:00 p.m. on March 7th and adjourn for the evening at 4:30 p.m. The meeting will resume at 8:30 a.m. on March 8th and end at 12:15 p.m. The agenda will include: a panel discussion with Ohio Drug-Free Communities Grantees; remarks by ONDCP Director Barry R. McCaffrey, the

status of juvenile justice and delinquency prevention; and a report by the ONDCP Administrator of the Drug Free Communities Support Program. There will be an opportunity for public comment from 11:30 a.m. until 12:00 noon on Wednesday March 8, 2000.

FOR FURTHER INFORMATION CONTACT: Please direct any questions to Linda V. Priebe, Attorney-Advisor, (202) 395–6622, Office of National Drug Control Policy, Executive Office of the President, Washington, D.C. 20503.

Edward H. Jurith,

General Counsel.

[FR Doc. 00–4403 Filed 2–24–00; 8:45 am]

BILLING CODE 3180–02–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

February 16, 2000.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before March 27, 2000. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0809.

Title: Communications Assistance for Law Enforcement Act (CALEA), Report and Order and Order on Reconsideration.

Form No.: Not applicable.

Type of Review: Extension to a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 5,000 respondents; 6,000 responses.

Estimated Time Per Response: 6 hours.

Frequency of Response: Recordkeeping and on occasion reporting requirement.

Total Annual Burden: 36,000 hours.

Total Annual Cost: N/A.

Needs and Uses: A Report and Order (R&O) considering the proposals made in the Notice of Proposed Rulemaking (NPRM) was adopted by the Commission in January 1999. The R&O made certain revisions to the burdens approved in the NPRM, chiefly to make them as effective as possible with minimum negative impact on telecommunications carriers.

The R&O requires that telecommunications carriers: establish and submit to the Commission their policies and procedures for ensuring that any interception of communications or access to call-identifying information effected within its switching premises can be activated only in accordance with lawful authorization and with the affirmative intervention of an individual officer or employee of the carrier, acting in accordance with regulations prescribed by the Commission. This submission must include information regarding the appointment of any individual whose job function will include being a point of contact for law enforcement to reach on a daily, around-the-clock basis, including a description of that individual's job function and a method of contacting that individual. The Commission did not adopt a proposal contained in the NPRM to establish less burdensome filing requirements for submission of policies and procedures by smaller carriers, finding that CALEA does not make a distinction between carriers based on size, for the purpose of determining who must submit their policies and procedures to the Commission. The Commission must review carriers' policies and procedures to determine whether they are in compliance with the rules established in CALEA. If the Commission determines that any carrier's policies and procedures are non-compliant, the carrier shall modify its policies and procedures accordingly.

The R&O also established certification and recordkeeping requirements covering each interception of communications or access to call-identifying information, made with or without appropriate authorization. The certification requirement could be met by having the designated company liaison sign the certification statement, verifying that the records are complete and accurate, and attaching the appropriate legal authorization, as well as any extensions that have been granted. The R&O adopted a two-tiered recordkeeping requirement. It mandated that telecommunications carriers maintain records of call-identifying information and unauthorized interceptions for ten years; it required carriers to maintain records relating to the content of each authorized interception of communications for a period of time determined by them in accordance with the policies and procedures that they establish under section 229(b) of the Communications Act and applicable state and federal statutes of limitation. The R&O then required that carriers include in their policies and procedures, submitted to the Commission for review, a detailed description of how long they will maintain their record of interception, and reasonable justification for the time period that carriers choose for their individual record retention. The R&O noted that the Commission retains authority to modify any carrier's policy or procedure that is determined not to be in compliance with these regulations.

The Order revises the recordkeeping obligations adopted in the R&O by finding that carriers need not retain the content or call-identifying information of any interceptions of communications. Thus, it replaces the requirement that carriers maintain records of unauthorized interceptions for ten years with one that allow the carriers to maintain the certification, as is the case with authorized interceptions, for a ''reasonable period of time''.

The Office of Management and Budget (OMB) approved the revised information collection burdens in the R&O and the Order on 2/2/00. This temporary approval expires at the end of

April 2000. The Commission is thus seeking a full three-year extension of approval. The Commission will use the information submitted to determine whether or not the telecommunications carriers are in conformance with CALEA's requirements and the Commission's Rules. Law enforcement officials will use the information maintained by telecommunications carriers to determine the accountability and accuracy of telecommunications carriers' compliance with lawful electronic surveillance orders.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–4385 Filed 2–24–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 98–171, DA 00–214]

Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Services, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Federal Communications Commission designates the National Exchange Carriers Association (NECA) as the data collection for purposes of the April 2000 Telecommunications Reporting Worksheet filing. Also, the Federal Communications Commission approves a method for allocating costs associated with this filing.

FOR FURTHER INFORMATION CONTACT: *Legal Information:* Scott Bergmann, Industry Analysis Division, Common Carrier Bureau, at (202) 418–7102. *Technical Information:* Jim Lande, Industry Analysis Division, Common Carrier Bureau, at (202) 418–0948.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order released February 4, 2000 (DA 00–214). The full text of the Order is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY-A257, 445 12th Street, SW, Washington, D.C. 20554. The complete text also may be purchased from the Commission's copy contractor, International Transcription Service, Inc. (202) 857–3800, 1231 20th Street, N.W., Washington, D.C. 20037. Additionally, the complete item is available on the Commission's website at <http://www.fcc.gov/Bureaus/Common_Carrier/Orders/2000.>

Synopsis of the Order

1. In the document summarized here, the Common Carrier Bureau, acting on delegated authority, takes action to provide for the filing of the April 2000 Telecommunications Reporting Worksheet and for the distribution of essential contributor revenue data to the administrators of the: (1) Telecommunications Relay Services Fund; (2) the cost recovery mechanism for numbering administration; (3) the cost recovery mechanism for long-term local number portability; and (4) the universal service support mechanism. These actions are necessary to ensure that the administrators of these support and cost recovery mechanisms will each have access to reliable and timely data on which to base contributions to these mechanisms.

2. Specifically, as set out below, we direct the National Exchange Carriers Association (NECA) to perform the data collection functions for the April 2000 filing, in accordance with the joint proposal submitted by the administrators of the four support and cost recovery mechanisms. We also set out procedures for the administrators to submit proposed arrangements for future filings. The Order directs that the administrators file by May 15, 2000 any proposals for handling the September 2000 and both the April and September 2001 filings. We expect that the procedures approved in the Order will result in lower administrative costs overall and will ensure the lowest possible regulatory burden on the telecommunications service providers that contribute to these support and cost recovery mechanisms.

Ordering Clauses

Accordingly pursuant to sections 1, 4(i), 4(j), 11, 201–205, 210, 214, 218, 225, 251, 254, 303(r), 332, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 1, 4(i), 4(j), 11, 201–205, 210, 214, 218, 225, 251, 254, 303(r), 332, and 403 that this Order is hereby adopted.

Federal Communications Commission.

Peyton L. Wynns,

Chief, Industry Analysis Division, Common Carrier Bureau.

[FR Doc. 00–4442 Filed 2–24–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 9, 2000.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Pamela J. Sharp, Albuquerque, New Mexico, Florence H. Schwab, Manhattan, Kansas, and Janet I. (Jo) Oberg, Clay Center, Kansas; to acquire voting shares of Union State Bank, Clay Center, Kansas.

Board of Governors of the Federal Reserve System, February 18, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–4424 Filed 2–24–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 9, 2000.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. MSB Holding Company, Moorhead, Iowa; to engage *de novo* in leasing activities, pursuant to § 225.28(b)(3) of Regulation Y.

Board of Governors of the Federal Reserve System, February 18, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–4425 Filed 2–24–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System

TIME AND DATE: 10:00 a.m., Wednesday, March 1, 2000.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW, Washington, DC 20551

STATUS: Closed

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a record announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: February 23, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–4571 Filed 2–23–00; 11:39 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Comment Period and Public Meeting: Framework Convention on Tobacco Control

AGENCY: Office of Public Health and Science, DHHS.

ACTION: Notice of comment period and public meeting.

SUMMARY: During the last two weeks in March, the Department of Health and Human Services is soliciting comments on the Framework Convention on Tobacco Control (FCTC), a proposed international legal instrument intended to address the global problem of tobacco use. Individuals and organizations are encouraged to comment on the FCTC in one or both of the following ways: (1) In writing, by submission through the mails, courier service, or email; (2) in person, at a public meeting that will be convened in Washington, DC.

Comments that are received will assist the U.S. government to understand the perspectives of various organizations and individuals on the Framework Convention on Tobacco Control (FCTC). The comment period and public meeting are intended to give interested persons, including public health and medical professionals, state and local officials, farmers, retailers, manufacturers and others an opportunity to comment on the FCTC.

The comment period and meeting are open to the public. The meeting is limited by the time available for comments. The day long meeting will allow approximately 130 comments to be heard. Seating capacity is 300.

Those who wish to attend are encouraged to register early with the contact person listed below. If you will require a sign language interpreter, or have other special needs, please notify the contact person by 4:30 E.S.T. on March 9, 2000.

DATES: The comment period will be held from March 15–30, 2000. Comments can be submitted by mail or electronically (electronic submissions are encouraged). To submit electronic comments, send via e-mail to FCTC@cdc.gov.

ADDRESSES: To submit comments by mail, send to: FCTC Comments (Attn: Ms. Monica Swann), Office on Smoking and Health, 200 Independence Avenue, SW., Room 317–B, Washington, DC 20201.

The public meeting will be held on March 15, 2000, from 8:30 a.m. to 5 p.m. at the Ronald Reagan International Trade Center, 1300 Pennsylvania Avenue, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Ms. Monica Swann, Office on Smoking and Health, Centers for Disease Control, 200 Independence Avenue, SW., Room 317–B, Washington, DC 20201, (202) 205–8500, or e-mail FCTC@cdc.gov.

SUPPLEMENTARY INFORMATION: In May 1999, the World Health Assembly, the governing body of the World Health Organization, unanimously adopted resolution WHA 52.18 calling for negotiation of a Framework Convention on Tobacco Control support (FCTC). The United States joined other countries in voicing support for negotiation of the convention, which is intended to address the global problem of tobacco use.

The first meeting of the FCTC working group was held in Geneva in October 1999. From May 2000 through 2003, it is anticipated that an Intergovernmental Negotiating Body will be established to negotiate the text of the FCTC and related protocols. May 2003 is the target date for completion of the FCTC by the World Health Assembly. (Background documents on the FCTC are available on the World Health Organization's web site at *http://www.who.int/toh/fctc/fctcintro.htm*.)

It is anticipated that additional comment periods and public meetings will be convened before the completion of the FCTC.

If you would like to attend the public meeting, you are encouraged to register early by providing your name, title, firm name, address, and telephone number to Monica Swann (contact information above). The U.S. government encourages individuals to submit written comments electronically or by mail. Comments also will be accepted during the meeting. If you would like to speak at the meeting, please notify Monica Swann (address above) when you register. There is no registration fee for the meeting.

The transcript of the public meeting and submitted comments will be posted on the Internet at http://www.cdc.gov/tobacco. In addition, you may request a transcript of the public meeting from the Freedom of Information Act Officer at:

Centers for Disease Control & Prevention, Attn: Lynn Armstrong, FOIA Officer, 1600 Clifton Road, NE, MS D54, Atlanta, GA 30333. The materials should be available approximately 15 working days after the meeting.

Dated: February 17, 2000.

David Satcher,

Assistant Secretary for Health and Surgeon General.

[FR Doc. 00–4388 Filed 2–24–00; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: (AHRQ), formerly known as the Agency for Health Care Policy and Research (AHCPR), HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request the Office of Management and Budget (OMB) to allow the proposed information collection project; ''Development and Implementation of National Guideline Clearinghouse Evaluation (NGC)''. In accordance with the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)), AHRQ invites the public to comment on this proposed information collection.

DATE: Comments on this notice must be received by April 25, 2000.

ADDRESSES: Written comments should be submitted to: Cynthia McMichael, Reports Clearance Officer, AHRQ, 2101 East Jefferson Street, Suite 500, Rockville, MD 20852–4908.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of the proposed information collection. All comments will become a matter of public record.

In accordance with the above cited legislation, comments on the AHRQ information collection proposal are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden (including hours and costs) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Cynthia D. McMichael, AHRQ Reports Clearance Officer, (301) 594–3132.

SUPPLEMENTARY INFORMATION:

Proposed Project

Development and Implementation of National Guideline Clearinghouse Evaluation (NGC)

The NGC already reaches many individuals indicating its great potential to affect medical practice. In the nine months since it became available to the public, the NGC site has processed over 5 million requests for guideline information, with an average user visit lasting seven minutes. Over the last six months, the ''hit volume'' (*e.g.*, connection to the Internet site) has been fairly constant with approximately 36,000 per day. The majority of users are within the United States, but the site is also utilized globally, indicating the potential for far reaching effects. As the NGC audience continues to grow and the field of best practices develops, the Web site will only be effective if it keeps pace with the needs of it users. A small study conducted by the American Medical Association (AMA) to gauge NGC awareness and satisfaction with the site among their members provides the only data to date on how the NGC is currently perceived by uses. Although its conclusions were limited by a small sample size of physician respondents (*e.g.*, n=44), the AMA survey suggested that several functions of the NGC could be improved. These findings support the need for a further, more comprehensive evaluation of the site's quality and usefulness in order for AHRQ to meet users' needs and to promote implementation of guidelines by health care professionals. The results of this type of evaluation will assist AHRQ and others to understand what user's want and need to utilize clinical guidelines in the provision of care. The timeliness and need for this evaluation effort is further underscored by the concurrent development of a customer satisfaction survey by the NGC Web site developer pursuant to its original contract in accordance with widely accepted management practices. This electronic survey, is being designed to capture NGC audience satisfaction with the interface and format of the Web site, which will complement this proposed evaluation of the content, quality, and usefulness of information.

The NGC is intended to serve the needs of a diverse population of users. Not only are the user groups different, their expectations and uses of the NGC are unique. Moreover, no single sampling or data collection technique is efficient to capture the needed information from these groups. A survey that attempted to capture the perspectives of all groups would be long, complicated, and burdensome. Therefore, we propose using a three-tiered data collection scheme designed to get distinct types of information in a manner most useful to helping evaluate how well the Web site is serving its intended populations. The three proposed approaches are survey questionnaire, focus group discussions, and unstructured, informational discussions.

Each will be applied to a subset of all users, as appropriate, to capture their unique opinions and best complement the overall data collection effort.

Data Confidentiality Provisions

Although no information on race, income, sexual behavior and attitudes, religious beliefs, or other matters commonly considered private will be requested, the contractor responsible for conducting the study will perform in accordance with the requirements of the Agency's confidentiality statute, 42 USC 299c–3(c), to protect respondents' privacy and the confidentiality of data collected. All results will be reported without attributing responses to any individual source. Information gained for the purposes of this data collection will only be used for the purposes of this project.

Data Products

The evaluation goals will be achieved through three types of data collection: (1) Written survey questionnaires, (2) focus groups, and (3) discussions with individuals working in health care who contribute to guideline development and use. Assignments of data collection modes to target audience groups are designed to reach the maximum number of respondents and the broadest range of groups. Participation will be minimally burdensome and is voluntary. Both qualitative and quantitative data will be collected to characterize the experiences and needs of users in a manner most likely to facilitate improvement activities by AHRQ.

The project will benefit AHRQ, the medical community, policy makers, health service researchers, and ultimately patients in the following ways:

- AHRQ will be able to monitor how their current format and content are serving their intended audiences;
- AHRQ will be able to assess how the Clearinghouse is affecting future development of guidelines and their implementation in clinical practices;
- AHRQ will be able to use the evaluation results to refine the site, thereby making it more useful for the medical community and other professionals who use guidelines in care management;
- Individual clinicians will be better able to obtain timely guidance about the management of complex clinical problems;
- Federal, State, and private purchasers will be able to encourage contracted or prospective plans and providers to adopt clinical practices that are consistent with the best available standards of care; and,
- Public policy experts will be better able to obtain unbiased, evidence-based guidelines and information for decisionmaking and policy purposes.

Method of Collection

Electronic mail will be used to transmit the written survey responses. The written survey will also be linked to the NGC Website. Users can complete the survey on-line, and their responses will be automatically submitted. By using e-mail and the Web link to target our audience we are ensuring that our respondents are Web-based users. This approach significantly reduces the burden to non-Web users who would be unable to contribute information useful to this data collection. Additionally, this use of information technology minimizes the burden on the targeted respondents by improving the ease in which they can submit their survey responses.

ESTIMATED ANNUAL RESPONDENT BURDEN

Annual number of respondents	Estimated time per respondent (in hours)	Estimated total annual burden hours	Estimated annual cost to the Government
1,359	.5	408	$249,993

The survey instrument is short and poses minimal burden on the time of respondents. Estimates of time required to complete the survey during the pilot phase range from 7 to 20 minutes. The annual hour burden calculation assumes each survey will last 15 minutes, therefore the total of annualized hourly costs to participants is estimated to be $30,040.

Dated: February 16, 2000.

John M. Eisenberg,

Director.

[FR Doc. 00–4521 Filed 2–24–00; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–0302]

Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document 2; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance entitled ''Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document 2.'' The guidance document is intended to assist facilities and their personnel to meet the Mammography Quality Standards Act of 1992 (the MQSA) final regulations. The final regulations implementing the MQSA became effective April 28, 1999, replacing the interim regulations.

DATES: Submit written comments concerning this guidance at any time.

ADDRESSES: Submit written requests for single copies on a 3.5″″ diskette of the guidance document entitled ''Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document 2'' to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit written comments on ''Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document 2'' to the contact person listed below.

FOR FURTHER INFORMATION CONTACT: Charles A. Finder, Center for Devices and Radiological Health (HFZ–240), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–594–3332.

SUPPLEMENTARY INFORMATION:

I. Background

The MQSA was passed on October 27, 1992, to establish national quality standards for mammography. The MQSA required that to provide mammography services legally after October 1, 1994, all facilities, except facilities of the U.S. Department of Veterans Affairs, must be accredited by an approved accreditation body and certified by the Secretary of Health and Human Services (the Secretary). The authority to approve accreditation bodies and to certify facilities was delegated by the Secretary to FDA. In the **Federal Register** of October 28, 1997, FDA published the MQSA final regulations. The final regulations became effective April 28, 1999, and replaced the interim regulations (58 FR 67558 and 58 FR 67565, December 21, 1993) which, under the MQSA, previously regulated mammography facilities. The document addresses new questions that FDA has received since the publication of ''Compliance Guidance: The Mammography Quality Standards Act Final Regulations'' on August 27, 1998.

The guidance document was published as a draft proposal for public comment on March 19, 1999 (64 FR 13589). It was discussed with the National Mammography Quality Assurance Advisory Committee in November 1998 and a working group of the Conference of Radiation Control Program Directors in May 1999. The document has been modified from the original draft proposal to address public comments. While there are many clarifying changes in the document,

there were no major substantive changes.

II. Significance of Guidance

This guidance document represents the agency's current thinking on the final regulations implementing the MQSA. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute, regulations, or both.

The agency has adopted good guidance practices (GGP's), which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (62 FR 8961, February 27, 1997). This guidance document is issued as a Level 1 guidance consistent with GGP's.

III. Electronic Access

In order to receive ''Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document 2'' via your fax machine, call the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. At the first voice prompt press 1 to access DSMA Facts, at second voice prompt press 2, and then enter the document number (1498) followed by the pound sign (#). Then follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the guidance may also do so using the Internet. CDRH maintains an entry on the Internet for easy access to information, including text, graphics, and files that may be downloaded to a personal computer with access to the Internet. Updated on a regular basis, the CDRH home page includes ''Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document 2,'' device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, mammography matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh. ''Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #2'' will be available at http://www.fda.gov/cdrh/mammography.

IV. Comments

Interested persons may, at any time, submit to the contact person (address above) written comments regarding this guidance. Such comments will be considered when determining whether to amend the current guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document.

Dated: February 9, 2000.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 00–4406 Filed 2–24–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–1267]

Guidance for Industry on NDAs: Impurities in Drug Substances; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''NDAs: Impurities in Drug Substances.'' This document recommends that applicants submitting new drug applications (NDA's) and holders of supporting Type II drug master files (DMF's) for drug substances not considered new drug substances refer to the guidance for industry on reporting drug substance impurities in the International Conference on Harmonisation (ICH) guidance document entitled ''Q3A Impurities in New Drug Substances.''

DATES: Submit written comments on agency guidances at any time.

ADDRESSES: Copies of this guidance for industry are available on the Internet at http://www.fda.gov/cder/guidance/index.htm. Submit written requests for single copies of this guidance to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Eric P. Duffy, Center for Drug Evaluation and Research (HFD–150), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5765.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a guidance for industry entitled ''NDAs: Impurities in Drug Substances.'' Although ICH ''Q3A Impurities in New Drug Substances,'' which was published in the **Federal Register** on January 4, 1996 (61 FR 372), provided guidance to industry on the reporting, identification, and qualification of impurities in new drug substances produced by chemical syntheses, FDA believes that the guidance provided in ICH Q3A should also be considered when evaluating drug substances produced by chemical syntheses that are not considered new drug substances. FDA recommends that applicants preparing NDA's and holders preparing Type II DMF's refer to the information contained in that ICH document.

In the **Federal Register** of January 21, 1999 (64 FR 3303), FDA announced the availability of a draft version of this guidance. The January 1999 document gave interested persons an opportunity to submit comments through April 21, 1999. All comments received during the comment period have been carefully reviewed and the guidance has been revised, where appropriate.

This level 1 guidance is being issued consistent with FDA's good guidance practices (62 FR 8961, February 27, 1997). The guidance represents the agency's current thinking on reporting impurities in drug substances for certain NDA's and DMF's. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes, regulations, or both.

Interested persons may, at any time, submit written comments on the guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 15, 2000.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 00–4405 Filed 2–24–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–312]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New collection.

Title of Information Collection: Conflict of Interest and Ownership and Control Information.

Form No.: HCFA–R–312 (OMB# 0938–NEW).

Use: This Conflict of Interest questionnaire is sent to all Medicare Fiscal Intermediaries (FIs) and Carriers to collect full and complete information on any entity's or individual's ownership interest (defined as a 5 per centum or more) in an organization that may present a potential conflict of interest in their role as a Medicare FI or Carrier. The information gathered is used to ensure that all potential, apparent and actual conflicts of interest involving Medicare contracts are appropriately mitigated and that employees of the contractors, including officers, directors, trustees and members of their immediate families, do not utilize their positions with the contractor for their own private business interest to the detriment of the Medicare program.

Frequency: Annually.

Affected Public: Not-for-profit institutions and business or other for-profit.

Number of Respondents: 42.

Total Annual Responses: 42.

Total Annual Hours: 126.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Dawn Willinghan, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Dated: February 14, 2000.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 00–4393 Filed 2–24–00; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–311]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New collection.

Title of Information Collection: Study to Support Development and Refinement of a Classification System and Prospective Payment System for Patients in Inpatient Rehabilitation Hospitals and Exempt Rehabilitation Units.

Form No.: HCFA–R–311 (OMB# 0938–NEW).

Use: This study will collect patient characteristics (using a previously approved instrument, the MDS–PAC), facility characteristics, and resource utilization as determined by staff time measurement and ancillary charges. The resulting analytic data base will support the development and refinement of a classification system for Medicare beneficiaries. This information will be used to develop a classification of Medicare patients using rehabilitation services in inpatient rehabilitation hospitals and exempt rehabilitation units in conformance with the requirements of the BBA of 1997.

Frequency: On occasion.

Affected Public: Business or other for-profit and not-for-profit institutions.

Number of Respondents: 1,640.

Total Annual Responses: 2,174.

Total Annual Hours: 4,735.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Dawn Willinghan, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Dated: February 14, 2000.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 00–4394 Filed 2–24–00; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF THE INTERIOR

Geological Survey

Biological Resources Division; Request for Public Comments on Information Collection To Be Submitted to OMB for Review Under the Paperwork Reduction Act

A proposal for the information collection described below will be submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the proposal should be made within 60 days directly to the Bureau clearance officer, U.S. Geological Survey, 807 National Center, 12201 Sunrise Valley Drive, Reston, Virginia, 20192, telephone (703) 648–7313.

As required by OMB regulations at 5 CFR 1320.8(d)(1), the U.S. Geological Survey solicits specific public comments as to:

1. Whether the collection of information is necessary for the proper performance of the functions on the bureaus, including whether the information will have practical utility;

2. The accuracy of the bureau's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

3. The quality, utility, and clarity of the information to be collected; and

4. How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other forms of information technology.

Title: North American Amphibian Monitoring Program (NAAMP).

Current OMB Approval Number: New collection.

SUMMARY: The collection of information referred herein applied to a World-Wide Web site that permits individuals to submit records of the number of calling amphibians at survey routes. The Web site is termed NAAMP. Information will be used by scientists and federal, state, and local agencies to monitor amphibian populations and detect population trends.

Estimated Annual Number of Respondents: 5000.

Estimated Annual Burden Hours: 20,000 hours.

Affected Public: Primarily U.S. residents.

FOR FURTHER INFORMATION CONTACT: To obtain copies of the survey, contact the Bureau clearance officer, U.S. Geological Survey, 807 National Center, 12201 Sunrise Valley Drive, Reston, Virginia, 20192, telephone (703) 648–7313, or see the website at www.mpl-pwrc.usgs.gov/amphibs.html.

Dated: February 11, 2000.

Denny Fenn,

Chief Biologist.

[FR Doc. 00–4502 Filed 2–24–00; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Federal Geographic Data Committee (FGDC); Public Review of the Shoreline Metadata Profile

ACTION: Notice; request for comments.

SUMMARY: The FGDC is conducting a public review of the Shoreline Metadata Profile. The purpose of this public review is to provide software vendors and data users and producers an opportunity to comment on this standard in order to ensure that it meets their needs.

Participants in the public review are encouraged to provide comments that address specific issues/changes/additions that may result in revisions to the draft Shoreline Metadata Profile. All participants who submit comments during the review period will receive acknowledgement of the receipt of their comment. After comments have been evaluated, participants will receive notification of how their comments were addressed. After formal endorsement of the standard by the FGDC, the standard and a summary analysis of the changes will be made available to the public.

DATES: Comments must be received on or before May 31, 2000.

CONTACT AND ADDRESSES: The draft standard may be downloaded via Internet address *http://www.fgdc.gov/standards/status/sub5__6.html*.

Request for printed copies of the standard should be addressed to ''Shoreline Metadata Standard,'' FGDC Secretariat (attn: Jennifer Fox), U.S. Geological Survey, 590 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 20192 or facsimile 703–648–5755 or Internet at gdc@usgs.gov.

Reviewer's comments may be sent to FGDC via Internet mail to gdc-shoreline@*www.fgde.gov*. Reviewer's comments may also be sent to the FGDC Secretariat at the above address. Please send one hardcopy version of the comments and a softcopy version on 3.5-inch diskette in WordPerfect, Microsoft Word, or Rich Text Format. Reviewers are strongly urged to use the template for sending comments that may be downloaded from Internet address *http://www.fgdc.gov/standards/directives/dir2d.html*

SUPPLEMENTARY INFORMATION: Following is the Introduction to the Shoreline Metadata Standard, submitted by the FGDC Bathymetric Subcommittee:

Introduction

In recent times, accurate delineation of the shoreline and the development of a shoreline standard have become important due to international and legal issues. With emerging technologies such as digital cartography, geographic information systems (GIS), Computer Aided Design and Drafting (CADD), digital data products, electronic charts, and the World Wide Web, temporal and spatial accuracy is very important when producing maps. The purpose of the ''Shoreline Metadata Profile'' is to address the complexities of shoreline data while serving the community of users involved with geospatial data ''activities'' that intersect the U.S. Shoreline.

Objective

This Shoreline Metadata Profile is the first in a series of standards that will define a Shoreline Data Content Standard. The metadata profile is to be used as an extension or profile to the existing Content Standards for Digital Geospatial Metadata (CSDGM). The glossary and bibliography are informative annexes that will provide a basis for understanding the shoreline and related issues. Because the CSDGM only allows for the documentation of generic geospatial data, the Bathymetric Subcommittee felt it was necessary to develop a metadata profile that addressed shoreline data and data that intersects with the shoreline. The objective of the metadata profile is to capture the critical processes and conditions that revolve around creating and collecting shoreline data. The metadata produced using this standard will be important for clearinghouse activities to locate potential data sets and to indicate the fitness for use and accuracy of a given data set. This Standard is intended to serve the community of users who are involved with geospatial data ''activities'' that intersect the U.S. Shoreline. The purpose is to clarify (standardize) some of the complexities of shoreline data by developing a metadata profile, bibliography and glossary, which will be an extension or profile of the FGDC CSDGM.

Scope

The Shoreline Metadata Profile provides the format and content for describing data sets related to shoreline and other coastal data sets. The metadata complies with the FGDC Content Standards for Digital Geospatial Standard. It provides additional terms and data elements required to support metadata for shoreline and coastal data sets.

The profile is primarily oriented toward providing the elements necessary for documenting shoreline data and reaching a common understanding of the shoreline for national mapping purposes and other geospatial and Geographic Information Systems (GIS) applications. Shoreline data are important for coastal zone management, environmental monitoring, resource developments, legal land jurisdictional issues, ocean and meteorological modeling, engineering, construction, planning, and many other uses. A published standard by a responsible agency will provide the affected community with a basis from which to assess the quality and utility of their shoreline data. Shoreline is an integral component of the geospatial data framework.

The shoreline glossary provides the working vocabulary for shoreline topics and thesaurus for the metadata standard. Every reference in the glossary has at least one reference to the bibliography. Additional explanatory material about the use of the term, common or known misuses of the term, and confounding or clarifying descriptions are included in the glossary. The glossary is structured so that users understand relationships among terms.

Applicability

This standard is to be used for reporting the availability of shoreline and coastal data sets in the National Spatial Data Infrastructure (NSDI) clearinghouse. It is also directly applicable to all data sets that intersect with the shoreline. It will be used to support reporting the collection, transformation, accuracy, and fitness for use of various shoreline data sets.

Related Standards

A crosscutting standards review and data model developed by FGDC in 1995 indicated that most of the FGDC thematic subcommittees and working groups have an entity relationship to shoreline data. FGDC endorsed standards that include reference to the shoreline are the Cadastral Data Content Standard (FGDC–STD–003) and Classification of Wetlands and Deep Water Habitats (FGDC–STD–004). The Tri Service Spatial Data Standard and feature reference model contains a relationship to shoreline. The National Imagery and Mapping Agency has also recently published a geospatial systems data model for shoreline data.

Standard Development Procedures

The location and attributes of the shoreline are valuable to the diverse user community. Mapping of the shoreline has produced a high volume of important information.

The determination of the shoreline is the responsibility of the Federal Government. Agencies such as the National Oceanic and Atmospheric Administration (NOAA) survey internal U.S. shorelines, while the Department of Defense (DoD) and National Imagery and Mapping Agency (NIMA) address external Shoreline surveying.

The primary organizations involved in the development of this standard are members of the shoreline engineering, coastal zone management, flood insurance, and resource management community. Federal agencies involved include NOAA, U.S. Geological Survey, Minerals Management Service, U.S. Environmental Protection Agency, Department of State, Department of Justice, U.S. Bureau of the Census, U.S. Coast Guard, U.S. Army Corps of Engineers, and NIMA. There has also been participation from private surveying contractors, the real estate industry, the insurance industry, various state and local government agencies, and private landowners.

In summer 1997, a notice of a workshop on shoreline data and a standards proposal were published in the **Federal Register**. The notice was then posted on several GIS, mapping, and coastal zone management related list servers and web sites. Based on the comments received and the level of interest, the workshop was expanded to include more participants than originally expected. The participants came together for the workshop in Charleston, South Carolina on November 3–5, 1997. An Internet site was established, and action items were initiated. This standard is the result of the work of participants.

The metadata requirements were expanded at a Shoreline Bathymetric Subcommittee meeting in Silver Spring, Maryland on February 5–6, 1998. This meeting focused on: what metadata is, how shoreline managers and technical staff could use it, and how to identify the unique characteristics of shoreline data.

In the winter of 1998, the FGDC Standards Working Group approved the Shoreline Metadata Profile proposal. The draft was developed by the Bathymetric Subcommittee Metadata Working Group over the next year and presented to the SWG in June of 1999.

Maintenance of Standard

The U.S. Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS), NOAA Coastal Services Center will maintain the Shoreline Metadata Profile, Glossary and Bibliography for the Federal Geographic Data Committee. Address questions concerning the content of this standard to David Stein, Secretary, FGDC Bathymetric Subcommittee at NOAA Coastal Services Center; 2234 South Hobson Avenue, Charleston, SC 29405–2413 or by E-mail: *dstein@csc.noaa.gov*

Dated: February 17, 2000.

Donald T. Lauer,

Acting Associate Division Chief for Operations.

[FR Doc. 00–4503 Filed 2–24–00; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Distribution of Fiscal Year 2000 Contract Support Funds

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of method of distribution and use of Fiscal Year 2000 Contract Support Funds.

SUMMARY: The purpose of this notice is to issue the Bureau of Indian Affairs' (BIA) administrative instructions for the implementation of Public Law 93–638, as amended. These administrative instructions are designed to provide BIA personnel with assistance in carrying out their responsibilities when distributing Contract Support Funds (CSF). These instructions are not regulations establishing program requirements.

DATES: The CSF Needs Report for ongoing/existing contracts and annual funding agreements are due on July 15, 2000. The CSF Needs Reports for new and expanded contracts and annual funding agreements are due periodically throughout the year as the need arises. All new and expanded contracts and annual funding agreements starting between October 1, 1999 and January 1, 2000 will be considered to have a January 1, 2000 start date.

ADDRESSES: Bureau of Indian Affairs, Office of Tribal Services, Division of Self-Determination Services, 1849 C Street, NW, MS–2526–MIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Jim Thomas, (202) 208–5727.

SUPPLEMENTARY INFORMATION: A total of $125,229,000 is available for contract support requirements (excluding construction requirements) during Fiscal Year (FY) 2000. Congressional language authorizes the use of CSF ($120,229,000) available in FY 2000 to pay costs of ongoing/existing self-determination and self-governance awards for programs under contract/compact prior to FY 2000 and $5,000,000 for the Indian Self-Determination Fund (ISD) to be utilized for new and expanded contracts/compacts. Each BIA Region office and the Office of Self-Governance (hereinafter Office) has the responsibility for tribes within their respective jurisdiction to work with the tribes in identifying new and expanded contracts and annual funding agreements and reporting this information to the Division of Self-Determination Services, as specified in this announcement. CSF shall be added to awards made under section 102 and Title IV of the Indian Self-Determination and Education Assistance Act, as amended. Awards made under the authority of section 103 of this Act shall not receive CSF to meet indirect costs.

Basis for Payment of CSF

The BIA may only pay indirect costs attributable to programs included in the BIA's Public Law 93–638 awards. BIA will utilize tribal indirect cost rates to determine the amount of CSF to be paid to eligible contracting tribes and tribal organizations and eligible self-governance tribes and tribal consortia. In determining legitimate indirect cost requirements each regional and self-governance director should fund only those contracting or compacting tribal organizations that have an approved indirect cost rate or indirect cost proposal currently under consideration by the Office of Inspector General. In those instances where a tribe or tribal organization has more than one approved rate or a current proposal under consideration by the Office of the Inspector General, the director should use the most current rate or a pending proposal in determining the amount to award. For those tribes who are unable to negotiate an indirect cost rate because of circumstances beyond their control (i.e., which do not have the administrative capability to negotiate a rate), area contract officers may negotiate reasonable lump sum amounts with these tribes.

Ongoing/Existing Contracts/Annual Funding Agreements—Method of Distribution

Each Office will submit CSF Needs Report to the Central Office for ongoing contracts and annual funding agreements by July 15, 2000. A final distribution of contract support will be made on or about July 31, 2000. CSF will be provided to each office from the remaining undistributed balance based on these reports. If these reports indicate that appropriations will not be sufficient to cover the entire need, the undistributed balance will be distributed pro rata, so that all contractors and compactors receive the same percentage of their reported need.

Should the amount provided for these existing contracts and annual funding agreements prove insufficient, a tribe or group of tribes may wish to reprogram funds to make up deficiencies necessary to recover full indirect costs. This tribal reprogramming authority is limited to funds from their Tribal Priority Allocation (TPA) allocation, or annual funding agreement. Congressional appropriations language does not provide authority for the BIA to reprogram funds from other Bureau programs to meet any CSF shortfalls.

For programs other than TPA, tribes are not constrained from recovering full indirect costs from within the overall program and contract support funds awarded for each program.

Each Office has been suballotted 85 percent of the total amount which was provided in FY 1999. From this amount each Office should award 75 percent of required contract support to each contract/annual funding agreement meeting the criteria established below.

All contractors and self-governance tribes/consortia with either an approved indirect cost rate, current indirect cost proposal, or FY 2000 approved lump sum amount are eligible to receive 75 percent of their CSF need with the first allotment of CSF in FY 2000. After the second allotment of CSF is made (approximately July 31, 2000) all contractors and self-governance tribes/consortia will receive their pro rata share of CSF, should appropriation be inadequate to pay full funding.

An ongoing/existing contract or annual funding agreement is defined as a BIA program operated by the tribal contractor or compactor on an ongoing basis which has been entered into prior to the current fiscal year. An increase or decrease in the level of funding from year to year for such contracts or annual funding agreements would not affect the designation of such contracts or annual funding agreements as being ongoing. An assumption of additional BIA program responsibilities would be required to trigger a change in designation.

New and Expanded Contracts/Compacts

Each Office will submit CSF Need Reports to the Central Office for new and expanded contracts and annual funding agreements periodically throughout the year as new contracts or annual funding agreements are awarded or existing contracts or annual funding agreements are expanded. Funds will be provided to the Offices as these reports are received and will be taken from the $5,000,000. These funds will be distributed on a first-come-first-served basis at 100 percent of need using the Office reports.

In the event the $5,000,000 is depleted, new or expanded contracts or annual funding agreements awarded after this fund has been exhausted will not be provided any CSF during this fiscal year. Requests received after this fund has been exhausted will be considered first for funding in the following year from funds appropriated for this purpose.

Priority of Funding for New and Expanded Contracts/Annual Funding Agreements

Contract support will be awarded from the ISD fund to all new and expanded contracts/annual funding agreements based on the start date of the award, and the application date, on a first-come-first-served basis. An Indian Self-Determination Fund ''applicant roster'' shall be maintained, which shall list, in order of priority, the name of the tribe or tribal organization, the name of the program, the start date, the application date, the amount of program funds, the program cost code(s), the amount of contract support funds required, and the date of approved indirect cost rate agreement or lump sum agreement.

''Start date'' means the date or commencement of operation of the new or expanded portion of the contract or annual funding agreement by the tribe/consortium or tribal organization. However, because the Self-Determination Act provides that contracts/annual funding agreements will be on a calendar year basis unless otherwise provided by the tribe, any start date on or prior to January 1 of each year shall be considered a January 1 start date.

''Application date'' shall be the date of the request by the tribe which

includes: (1) A tribal resolution requesting a contract or annual funding agreement; (2) a summary of the program or portion thereof to be operated by the tribe/consortium or tribal organization; and (3) a summary identifying the source and amount of program or services funds to be contracted or included in an annual funding agreement and contract support requirements. In the event that two tribes or tribal organizations have the same start date and application date, then the next date for determination of priority shall be the date the fully complete application was received by the BIA.

If all of the above are equal, and if funds remaining in the ISD fund are not adequate to fill the entire amount of each award's contract support requirement, then each will be awarded a proportionate share of its requirement and shall remain on the Indian Self-Determination Fund Roster in appropriate order of priority for future distributions.

New contract/annual funding agreement is defined as the initial transfer of a program, previously operated by the BIA to the tribe/consortium or tribal organization.

An expanded contract/annual funding agreement is defined as a contract/annual funding agreement which has become enlarged, during the current fiscal year through the assumption of additional programs previously operated by the BIA.

Criteria for Determining CSF Need for Ongoing/Existing Contracts/Annual Funding Agreements

CSF for ongoing and existing contracts/annual funding agreements will be determined using the following criteria:

(1) All TPA contracted programs or those programs included in annual funding agreements in FY 1999 and continued in FY 2000, including contracted or annual funding agreement programs moved to TPA in FY 2000.

(2) Direct program funding increases due to inflation adjustments and general budget increases.

(3) TPA programs started or expanded in FY 2000 that are a result of a change in priorities from other already contracted/annual funding agreement programs.

(4) CSF differentials associated with tribally-operated schools that receive indirect costs through the application of the administrative cost grant formula. These differentials are to be calculated in accordance with the criteria prescribed in the Choctaw decision dated September 18, 1992, issued by the Contracting Officer, Eastern Region office. Copies of this decision can be obtained by calling the telephone number provided in the **FOR FURTHER INFORMATION CONTACT** section.

(5) CSF will be distributed to the Office of Self-Governance for ongoing annual funding agreements, on the same basis as regional offices.

(6) Funds available for Indian Child Welfare Act (ICWA) programs or reprogrammed from ICWA to other programs will be considered ongoing for the purposes of payment of contract support costs.

(7) The use of CSF to pay prior year shortfalls is not authorized.

(8) Programs funded from sources other than those listed above that were awarded in FY 1999 and are to be awarded in FY 2000 are considered as ongoing.

Dated: February 17, 2000.

Kevin Gover,

Assistant Secretary, Indian Affairs.

[FR Doc. 00–4437 Filed 2–24–00; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–700–00–5440–00–C023]

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Availability

AGENCY: Bureau of Land Management, Interior; Forest Service, Agriculture.

Responsible Officials:

Ann Morgan, State Director, Colorado State Office, Bureau of Land Management, 2850 Youngfield, Denver, CO 80215.

Robert L. Storch, Forest Supervisor, Grand Mesa, Uncompahgre and Gunnison National Forests, U.S. Forest Service, 2250 US Hwy 50, Delta, CO 81416.

ACTION: Notice of Availability of North Fork Coal Final Environmental Impact Statement (FEIS) for the Iron Point Coal Exploration License application (COC61945), Iron Point Coal Lease Tract application (COC61209) and the Elk Creek Coal Lease Tract application (COC61357) of Federal coal reserves in Delta and Gunnison Counties, Colorado.

SUMMARY: Pursuant to 40 CFR 1500–1508, the Bureau of Land Management (BLM) and the USDA Forest Service (FS) announce the availability of the North Fork Coal FEIS for the Iron Point and Elk Creek Coal Lease Tracts for competitive leasing and the Iron Point Coal Exploration license for exploration drilling in accordance with 43 CFR 3425 and 3410.

DATES: The FEIS is scheduled to be available to the public on February 25, 2000. Separate Records of Decision (one for each application by each agency) will be signed after the 30 day availability period ends on March 27, 2000.

ADDRESSES: Please address questions on the FEIS to the Bureau of Land Management, Attn: Jerry Jones, 2465 South Townsend Ave., Montrose, CO, 81401.

FOR FURTHER INFORMATION CONTACT: Jerry Jones at the above address, or phone number 970–240–5338, or fax number 970–240–5368. E-mail can be sent to Jerry__Jones@co.blm.gov.

SUPPLEMENTARY INFORMATION: As a result of two applications for coal leasing and one application for a coal exploration license, the following lands were analyzed in this EIS.

T. 12 S., R. 90 W., 6th P.M.
Sec. 31, lots 1 to 14, inclusive, and NE¼;
Sec. 32, lots 3 to 6, inclusive, lots 11 to 14, inclusive, and NW¼.
T. 12 S., R. 91 W., 6th P.M.
Sec. 14, lots 7,8, S½S½, NE¼SW¼, NW¼SE¼;
Sec. 22, S½;
Sec. 23, lots 1 to 7, inclusive, W½, and that part of HES No. 133 lying in the S½SE¼;
Sec. 26, lots 1 to 5, inclusive, W½, N½SE¼, that part of HES No. 133 lying in the NE¼ and that part of HES No. 134 lying in the SE¼;
Sec. 27, all;
Sec. 28, S½;
Sec. 29, SE¼;
Sec. 32, lots 1, 2, 7 to 10, inclusive, lots 15, 16, and NE¼;
Sec. 33, lots 1 to 16, inclusive, and N½;
Sec. 34, lots 1 to 16, inclusive, and N½;
Sec. 35, lots 1 to 22, that part of HES No. 134 lying in the NE¼; N½NW¼, and SW¼NW¼.
Sec. 36, lots 1 to 17, inclusive, NE¼, E½NW¼, SW¼NW¼, and that part of HES No.134 lying in lot 1.
T. 13 S., R. 90 W., 6th P.M.
Sec. 5, lots 6 to 11, inclusive and lot 15;
Sec. 6, lots 8 to 17, inclusive.
T. 13 S., R. 91 W., 6th P.M.
Sec. 1, lots 1 to 4, inclusive, S½NW¼ and SW¼;
Sec. 2, lot 1, and S½NE¼, SW¼NW¼, NW¼SW¼, and E½SW¼;
Sec. 3, lots 1 to 4, inclusive, S½N½, and N½S½;
Sec. 4, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 5, lots 11 and 12, SE¼, E½SW¼, SW¼NE¼, and SE¼NW¼;
Sec. 8, NE¼;
Sec. 9, NW¼, and N½SW¼;
Sec. 11, NE¼NW¼.

Sec. 12, S½NE¼, and NW¼.

Bowie Resources, Ltd. and Oxbow Mining, Inc. applied to the BLM for the Iron Point and Elk Creek coal lease tracts respectfully to extend the production life of their existing underground mines. Similarly, Bowie applied to the BLM for a coal exploration license to further delineate coal resource in lands adjacent to their ongoing mining. The requested Iron Point Tract and the exploration license area are adjacent to the presently approved permit area for the Bowie No. 2 Mine which is operated by Bowie. Likewise, the requested Elk Creek Tract is adjacent to the presently approved permit area for the Sanborn Creek Mine which is operated by Oxbow. These applications encompass federal coal on BLM and National Forest system lands. The federal coal resource to be offered is limited to coal recoverable by underground mining methods.

The USDA Forest Service is a joint lead agency in the preparation of the EIS because the surface of some of the land in the applications is administered by the Forest Service. The Office of Surface Mining Reclamation and Enforcement is a cooperating agency in the preparation of the EIS because it is the Federal agency that would review the mining plans for the two proposed tracts if they are leased, and recommend approval or disapproval of the mining plans to the Secretary of the Interior.

The EIS analyzes four alternatives. Besides the no-action alternative and the plans as submitted in the applications, two other alternatives were examined in the EIS. The other alternatives analyzed the possibility of multiseam mining and the restriction of subsidence due to underground mining activity in key areas to protect surface resources.

The DEIS was filed on September 3, 1999 and the DEIS comment period extended through November 3, 1999. An informal open house was held on October 7, 1999 and a public hearing was held on October 14, 1999 at Hotchkiss High School in Hotchkiss, Colorado.

Freedom of Information

Comments, including names and street addresses of respondents, will be available for public review at the addresses listed above during regular business hours (7:45 a.m.–4:30 p.m.), Monday through Friday, except holidays, and may be published as part of the Final EIS. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety. Proprietary data so marked shall be treated in accordance with the laws and regulations governing the confidentiality of such information.

Dated: February 11, 2000.

Jerry Jones,

EIS Project Manager, Bureau of Land Management.

Robert L. Storch,

Forest Supervisor, Grand Mesa, Uncompahgre, Gunnison National Forest.

[FR Doc. 00–4331 Filed 2–24–00; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–080–1210–PG]

Meeting

AGENCY: Bureau of Land Management, Upper Columbia-Salmon Clearwater District, Idaho.

ACTION: Notice of resource advisory council meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C. Appendix, the Bureau of Land Management (BLM) announces the meeting of the Upper Columbia-Salmon Clearwater District Resource Advisory Council (RAC) on Thursday, March 23, 2000 and Friday, March 24, 2000 in Missoula, Montana.

Agenda items include: Recreation standards and guidelines; election of officers; update on the Interior Columbia Basin Ecosystem Management Project; and identification of future issues. The meeting will begin at 1 p.m. (MST), March 23, 2000 at the C'mon Inn, 2775 Expo Parkway, Missoula, Montana. The public may address the Council during the public comment period from 2 p.m.–2:30 p.m. on March 23, 2000.

SUPPLEMENTARY INFORMATION: All Resource Advisory Council meetings are open to the public. Interested persons may make oral statements to the Council, or written statements may be submitted for the Council's consideration. Depending on the number of persons wishing to make oral statements, a per-person time limit may be established by the District Manager.

The Council's responsibilities include providing recommendations concerning long-range planning and establishing resource management priorities.

FOR FURTHER INFORMATION CONTACT: Ted Graf (208) 769–5004.

Dated: February 9, 2000.

Ted Graf,

Acting District Manager.

[FR Doc. 00–4399 Filed 2–24–00; 8:45 am]

BILLING CODE 4310–GG–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–020–00–1430–01; AZA–31169]

Notice of Realty Action; Recreation and Public Purposes (R&PP) Act Classification: Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following public lands, are located in Maricopa County, Arizona, and found suitable for lease or conveyance under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869, *et seq.*). The lands are not needed for federal purposes. Conveyance is consistent with current Bureau of Land Management (BLM) land use planning and would be in the public interest.

AZA–31169

The following described lands, located near New River, Maricopa County, have been found suitable for Conveyance to the Flood Control District of Maricopa County for insertion in the flood plain.

Gila and Salt River Meridian, Arizona

T. 7 N., R. 2 E.
Sec. 15, E½SE¼.
Containing approximately 60.00 acres.

The Conveyance would be subject to the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purposes Act and all applicable regulations of the Secretary of the Interior.

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals.

3. A right-of-way for ditches and canals constructed by the authority of the United States.

4. Those rights for a flood control structure granted to Flood Control

District of Maricopa County by Right-of-Way number AZA–27767.

5. Those rights as Richard and Anna Bragg, may have as to that portion of the Tee allotment.

FOR FURTHER INFORMATION CONTACT: Linda Mullenix at the Phoenix Field Office, 2015 W. Deer Valley Road, Phoenix, Arizona 85027, (623) 580–5540.

SUPPLEMENTARY INFORMATION: Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act. For a period of 45 days from the date of publication of this Notice, interested parties may submit comments regarding the proposed lease, conveyance or classification of the lands to the Field Office Manager, Phoenix Field Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Classification Comments

Interested parties may submit comments involving the suitability of the land for: Insertion into the flood plain by the Flood Control District of Maricopa County. Comments on the classification are restricted to whether the land is physically suited for the proposals, whether the uses will maximize the future use or uses of the land, whether the uses are consistent with local planning and zoning, or if the uses are consistent with state and federal programs.

Application Comments

Interested parties may submit comments regarding the specific uses proposed in the applications and plans of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for proposed uses. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication in the **Federal Register**.

Dated: February 15, 2000.

Margo E. Fitts,

Assistant Field Manager.

[FR Doc. 00–4504 Filed 2–24–00; 8:45 am]

BILLING CODE 4310–32–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–021–00–1430–ES; MTM–79100]

Notice of Realty Action; Recreation and Public Purposes (R&PP) Act Classification; Montana

AGENCY: Bureau of Land Management, Miles City Field Office, Interior.

ACTION: Notice.

SUMMARY: The following public lands near the community of Glendive, Dawson County, Montana have been examined and found suitable for classification and opening under provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*).

Principal Montana Meridian

T15N, R55E, PMM, Sec 14: Lots 1–4, E2, E2W2
Sec 24: All
T15N, R56E, PMM, Sec 6: Lots 1–7, S2NE, SENW, E2SW, SE
Sec 30: Lots 1–2, E2, E2NW
Sec 32: NE, N2NW, SENW

Containing 2,699.64 acres more or less.

The lands are not needed for Federal purposes. Conveyance of the lands for recreational use is consistent with current BLM land use planning and would be in the public interest.

The patent, when issued, will be subject to the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. A right-of-way for ditches and canals constructed by the authority of the United States.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

4. The patentee agrees that it takes the herein described lands subject to the existing grazing use of Charles Ferguson, Kenneth Nemitz, and J.I. Engle, holders of grazing authorizations Nos. 253064, 252925, and 252895. The rights of Charles Ferguson, Kenneth Nemitz, and J.I. Engle to graze domestic livestock on the herein described lands according to the conditions and terms of grazing authorizations Nos. 253064, 252925, and 252895 shall cease on May 12, 2001. The patentee is entitled to receive annual grazing fees from Charles Ferguson, Kenneth Nemitz, and J.I. Engle in an amount not to exceed that which would be authorized under the Federal grazing fee published annually in the **Federal Register** until May 12, 2001.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws.

DATES: Comments must be submitted on or before April 10, 2000. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective on April 25, 2000.

ADDRESSES: Interested persons may submit comments regarding the proposed conveyance or classification of the lands to the Field Manager, Miles City Field Office, 111 Garryowen Road, Miles City, MT 59301.

FOR FURTHER INFORMATION CONTACT: Brian Lynnes, Realty Specialist, (406) 233–2822.

SUPPLEMENTARY INFORMATION:

Classification Comments

Interested parties may submit comments involving the suitability of the land for Makoshika State Park. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments

Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for Makoshika State Park.

Dated: February 16, 2000.

Timothy M. Murphy,

Field Manager.

[FR Doc. 00–4505 Filed 2–24–00; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–086–1990–HP]

Notice

AGENCY: Bureau of Land Management, Upper Columbia-Salmon Clearwater District, Idaho.

ACTION: Notice of Restriction Order for BLM Lands in Boundary, Bonner,

Kootenai, Shoshone and Benewah Counties, Order No. ID–080–22.

SUMMARY: Pursuant to 43 Code of Federal Regulations (CFR) subpart 8364, the following act is prohibited on lands administered by the Bureau of Land Management within Boundary, Bonner, Kottenai, Shoshone and Benewah Counties in Idaho:

Going into any abandoned underground opening including, but not limited to, adits and shafts that are the result of past mining activities.

This order becomes effective immediately and will remain in effect until rescinded or revoked.

These restrictions are necessary to protect public health and safety, and for the protection of threatened, rare, or vanishing species of animals and plants.

Pursuant to 43 CFR 8364.1(b)(4) the following persons are exempt from this order:

1. Any authorized federal, state or local officer, or person(s), including contractors working under the authorized officer's supervision, or member of an organized rescue or fire fighting force in the performance of an official duty.

2. Any qualified person or entity who has made written application or notification to the authorized officer, and received written acknowledgment/approval, in relation to authorized mineral activities conducted under 43 CFR Part 3000 Minerals Management.

3. Person(s) with a written permit from the authorized officer in their possession.

Violation of this order is punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

FOR FURTHER INFORMATION CONTACT: Jim Robbins, Mining Engineer, Coeur d'Alene Field Office, 1808 N. Third St., Coeur d'Alene, ID 83814. Phone (208) 769–5032.

Dated: February 10, 2000.

Ted Graf,

Acting District Manager.

[FR Doc. 00–4398 Filed 2–24–00; 8:45 am]

BILLING CODE 4310–GG–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–080–1220–PA]

Upper Columbia-Salmon Clearwater district, Idaho; Restriction

AGENCY: Bureau of Land Management, Upper Columbia-Salmon Clearwater District, Idaho, Interior.

ACTION: Notice of restriction order for BLM Lands in Wallace L. Forest Conservation Area, Kootenai County, Idaho, Order No. ID–060–21

SUMMARY: By order, the following restriction applies to the Wallace L. Forest Conservation Area, described as all public land administered by the Bureau of Land Management (BLM) located in the following: Section 31, T.50N., R.2W.; Section 1, T.49N., R.3W.; Section 6, T.49N., R.2W.; Sections 26 and 35, T.50N., R.3W. Boise Meridian. Maps depicting the restricted area are available for public inspection at the BLM, Coeur d'Alene Field Office, 1808 North Third St., Coeur d'Alene, Idaho, 83814.

Cutting of personal use firewood is prohibited.

The authority for establishing these restrictions is Title 43, Code of Federal Regulations, 8364.1

These restrictions become effective on April 1, 2000 and shall remain in effect until revoked and/or replaced with supplemental rules.

These restrictions do not apply to:

Any person issued a BLM timber sale contract for the removal of forest products from the above-described area.

This restriction is necessary to protect pubic land from habitat degradation due to illegal firewood cutting and off-road vehicle.

Violation of this order is punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

Dated: February 11, 2000

Ted Graf,

Acting District Manager.

[FR Doc. 00–4397 Filed 2–24–00; 8:45 am]

BILLING CODE 4310–66–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–032–0–1430–EU]

Notice of Availability of the Wisconsin Draft Resource Management Plan Amendment/Environmental Assessment

AGENCY: Bureau of Land Management, Milwaukee Field Office, Department of the Interior.

ACTION: Notice of availability.

SUMMARY: Notice is hereby given that the Bureau of Land Management (BLM), Milwaukee Field Office, has released a Draft Resource Management Plan Amendment (RMPA) and Environmental Assessment (EA), to assess the future disposition of 12 public domain parcels in the State of Wisconsin. The parcels are located in Bayfield, Door, Langlade, Oneida, Vilas, and Waupaca Counties. Four of the tracts contain historic lighthouses declared excess by the U.S. Coast Guard and the remaining parcels are small, isolated tracts located in northern Wisconsin.

The planning effort has followed the procedures set forth in 43 CFR subpart 1600. The EA has been prepared under 40 CFR part 1500, *et seq.*

The public is invited to comment on the Draft RMPA/EA by providing substantive input relating to the planning issues and accuracy of the scientific data used in the plan. Input stating agreement or disagreement with a particular alternative is not considered substantive under BLM's planning regulations or the National Environmental Policy Act.

DATES: The comment period commences with the publication of this notice. Comments must be postmarked no later than April 25, 2000.

ADDRESSES: Written comments should be addressed to the Field Manager, Milwaukee Field Office, P.O. Box 631, Milwaukee, Wisconsin 53201–0631. Submit electronic comments and other data to Howard__Levine@es.blm.gov.

FOR FURTHER INFORMATION CONTACT: Howard Levine, Planning and Environmental Coordinator, 414–297–4463.

SUPPLEMENTARY INFORMATION: The Draft RMPA/EA contains three alternatives: (1) transfer of the parcels to other Federal, State or local agencies, non-profit groups, Native American Tribes or private land owners; (2) no action, in which BLM would retain the tracts and manage them on a custodial basis; and (3) retention by BLM which would actively manage the properties under multiple use and sustained yield principles.

The Draft RMPA identifies disposal criteria that will be consulted if Alternative 1 is chosen and when BLM reviews site-specific proposals to acquire the properties. The criteria serve two purposes. First, they prescribe the management and resource objectives for each property based on the planning issues developed during the scoping period. Second, the criteria establish the procedures, such as consultations or studies, that must be completed prior to transfer of any tract. These consultations and studies, coupled with specific development proposals, will be used to analyze environmental impacts for the properties.

BLM may hold public workshops or open houses on the Draft RMPA, if public interest warrants holding them.

Complete records of all phases of the planning process will be available at the

Milwaukee Field Office and are available upon request.

Dated: February 16, 2000.

James W. Dryden,

Field Manager.

[FR Doc. 00–4261 Filed 2–24–00; 8:45 am]

BILLING CODE 4310–PN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–929–00–1420–HE]

Montana: Filing of Plat of Survey

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice.

SUMMARY: The plat of survey of the following described land is scheduled to be officially filed in the Montana State Office, Billings, Montana, thirty (30) days from the date of this publication.

T. 2 S., R. 44 E., P.M., MT

The plat, representing the dependent resurvey of portions of the subdivisional lines, the adjusted original meanders of the right bank of the Tongue River, downstream through section 10 and the subdivision of section 10 lying within the Northern Cheyenne Indian Reservation, and the subdivision of section 10 and the survey of the medial line of an abandoned channel of the Tongue River, Township 2 South, Range 44 East, Principal Meridian, Montana, was accepted February 10, 2000.

This survey was executed at the request of the Miles City District Office, and was necessary to identify lands administered by the Bureau of Land Management.

A copy of the preceding described plat will be immediately placed in the open files and will be available to the public as a matter of information.

If a protest against this survey, as shown on this plat, is received prior to the date of the official filing, the filing will be stayed pending consideration of the protest.

This particular plat will not be officially filed until the day after all protests have been accepted or dismissed and become final or appeals from the dismissal affirmed.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 5001 Southgate Dr., P.O. Box 36800, Billings, Montana 59107–6800.

Dated: February 11, 2000.

Daniel T. Mates,

Chief Cadastral Surveyor, Division of Resources.

[FR Doc. 00–4400 Filed 2–24–00; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

(ID–080–1210–DH)

Resource Management Plans; Lemhi Resource Area, ID

AGENCY: Bureau of Land Management, Idaho, Interior.

ACTION: Notice of intent to amend the Lemhi Resource Management Plan (RMP).

SUMMARY: Pursuant to 43 CFR 1600, the Upper Columbia-Salmon Clearwater District, Salmon Field Office—BLM proposes to amend the Lemhi Resource Management Plan (RMP) (BLM 1987) to address the following issues and concerns: (a) Change management of naturally-ignited and management-ignited fires occurring on public lands managed by the Salmon Field Office (formerly the Lemhi Resource Area), (b) more accurately define the location of the Lewis and Clark National Historic Trail (the Trail) corridor, (c) provide additional guidance for management of resources, values, and uses on public lands within the Trail corridor and its surrounding area, and for other areas where visitor use is increasing substantially, and (d) incorporate into the Lemhi RMP approximately 40,000 acres of public lands formerly managed as part of the BLM's Ellis-Pahsimeroi Management Framework Plan. Fire management guidance would apply to approximately 499,566 acres of public lands managed by the Salmon Field Office in Lemhi County, Idaho. Exact locations and acreage of public lands affected by Lewis and Clark Trail management actions and actions applying to other existing special designation areas would be determined during the amendment process. Public lands formerly managed as part of the Ellis-Pahsimeroi MFP include approximately 40,000 acres.

DATES: The BLM will hold public scoping meetings to solicit input and comments from interested persons. The dates, times, and locations of these informational/open-house meetings will be announced through the local media prior to the meetings. To receive maximum consideration, written comments to suggest planning issues, planning criteria, and/or alternatives to be considered in the proposed amendment should be received at the address noted below by April 3, 2000.

ADDRESSES: Written comments should be addressed to Kathe Rhodes, Planning and Environmental Coordinator by mail at Bureau of Land Management, Route 2, Box 610, Salmon, Idaho 83467, or by e-mail at Kathe__Rhodes@blm.gov. Documents related to the proposed amendments may be reviewed at the Salmon BLM Office on Highway 93 South in Salmon, Idaho during normal business hours (7:45 a.m. to 4:15 p.m., Monday through Friday, excluding holidays). Comments, including names and addresses of respondents, will be available for public review at the above address and times, and may be published as part of the environmental assessment or other related documents. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comments. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: For further information please contact either Kathe Rhodes, Planning and Environmental Coordinator, at (208) 756–5440, or Dave Krosting, Field Office Manager, at (208) 756–5410. Written inquiries may be addressed to either Kathe Rhodes or Dave Krosting at the following address: Bureau of Land Management, Route 2, Box 610, Salmon, Idaho 83467.

SUPPLEMENTARY INFORMATION: The RMP amendment and environmental assessment will be prepared by an interdisciplinary team consisting of Salmon Field Office and Upper Columbia—Salmon Clearwater District staff with expertise in recreation management, visual resources, cultural resources, tribal treaty rights and trust resources, forest resources, fire/landscape ecology, fuels management, wildlife habitat, rangeland management (including noxious/invasive plants), special status species, minerals, transportation/engineering, lands and realty, and other disciplines as appropriate.

Dated: February 11, 2000.

Ted Graf,

Acting District Manager.

[FR Doc. 00–4396 Filed 2–24–00; 8:45 am]

BILLING CODE 4310–GG–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–643 (Review); Investigations Nos. 731–TA–661–662 (Review)]

Defrost Timers From Japan; Color Negative Photo Paper and Chemicals From Japan and The Netherlands

AGENCY: United States International Trade Commission.

ACTION: Termination of five-year reviews.

SUMMARY: The subject five-year reviews were initiated in December 1999 to determine whether revocation of the existing antidumping duty order on defrost timers/termination of the suspended investigations on color negative photo paper and chemicals would be likely to lead to continuation or recurrence of dumping and of material injury to a domestic industry. On February 16, 2000, the Department of Commerce published notice that it was revoking the order/terminating the suspended investigations ''because no domestic party responded to the sunset review notice of initiation by the applicable deadline'' (65 FR 7830). Accordingly, pursuant to section 207.69 of the Commission's Rules of Practice and Procedure (19 CFR § 207.69), the subject reviews are terminated.

EFFECTIVE DATE: February 16, 2000.

FOR FURTHER INFORMATION CONTACT: Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

Authority: These reviews are being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.69 of the Commission's rules (19 CFR § 207.69).

By order of the Commission.

Issued: February 18, 2000.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–4496 Filed 2–24–00; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–846–850 (Final)]

Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe and Tube From The Czech Republic, Japan, Mexico, Romania, and South Africa

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigations.

EFFECTIVE DATE: February 17, 2000.

FOR FURTHER INFORMATION CONTACT: Bob Carr (202–205–3402), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION: On January 7, 2000, the Commission established a schedule for the conduct of the final phase of the subject investigations (65 FR 2430, January 14, 2000). Subsequently, the Department of Commerce extended the date for its final determinations in the investigations on Japan and South Africa from February 21, 2000 to April 27, 2000 (65 FR 6153). Commerce has also extended the date for its determinations on the Czech Republic, Mexico, and Romania to June 19, 2000. The Commission, therefore, is revising its schedule to conform with Commerce's new schedule.

The Commission's new schedule for the investigations is as follows: requests to appear at the hearing must be filed with the Secretary to the Commission not later than April 27, 2000; the prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on May 1; the prehearing staff report will be placed in the nonpublic record on April 21; the deadline for filing prehearing briefs is April 28; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on May 4; the deadline for filing posthearing briefs is May 11; the Commission will make its final release of information on May 25; and, final party comments for the investigations concerning Japan and South Africa are due on May 30, while final party comments for the investigations concerning the Czech Republic, Mexico, and Romania are due no later than three business days following the release of Commerce's final determinations for those countries.

For further information concerning these investigations see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: February 18, 2000.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–4497 Filed 2–24–00; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on February 8, 2000, a proposed Consent Decree in *United States* v. *A–L Processors, f.k.a. Atlas-Lederer Co., et al.,* Civil Action No. C–3–91–309, was lodged with the United States District Court for the Southern District of Ohio.

In this action the United States sought the reimbursement of response costs in connection with the United Scrap Lead Superfund Site in Troy, Miami County, Ohio (''the Site'') pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9601 *et seq.* The Consent Decree resolves the United States' claims against Barberton Auto Wrecking, Bedford Auto Wrecking Inc., Cleveland Road Auto Wrecking, Cohen Brothers Metals Company, Galion Auto Wrecking, Inc., Glazer Scrap Corporation, Hinton's Incorporated, J.M. Cousins Company, Joseph H. Homan Metal Company, Joyce Iron & Metal Company, Kelly's Battery Service, Kemper Iron, Kenmore Auto Wrecking,

Oil & Battery Service Company, Piqua Batter, Inc., Charles Drapp, Mary Drapp, George L. Richardson d.b.a. Turnpike Auto Wrecking, White's Sales & Service, and Montgomery Iron & Paper Company, for response costs incurred as a result of the release or threatened release of hazardous substances at the Site. These parties will pay the United States $160,036.

The Consent Decree also resolves the United Scrap Lead Respondent Group's (''Respondent Group'') CERCLA claims against the same parties for response costs incurred as a result of the release or threatened release of hazardous substances at the Site. These parties will pay the Respondent Group $549,250.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Washington, D.C. 20044, and should refer to *United States* v. *A–L Processors, f.k.a. Atlas-Lederer Co., et al.,* D.J. Ref. 90–11–3–279B.

The Consent Decree may be examined at the Office of the United States Attorney, Southern District of Ohio, Federal Building Room 602, 200 West Second Street, Dayton, Ohio, or at the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Street, Chicago, Illinois 60604–3590. A copy of the Consent Decree may also be obtained by mail by requesting a copy from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044. In requesting a copy, please enclose a check in the amount of $14.00 (56 pages at 25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–4507 Filed 2–24–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that a consent decree in *United States* v. *Air Products and Chemicals, Inc., et al.,* Civil Action No. 00–109 (W.D. Pa.) was lodged with the court on January 19, 2000.

The proposed decree resolves claims of the United States against 11 defendants under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation and Liability Act, as amended (''CERCLA''), 42 U.S.C. §§ 9606 and 9607, for response costs and actions at the River Road Superfund Site in Mercer County, PA. The decree requires the defendants to perform the EPA-selected remedial action to address hazardous substance contamination at the site. That remedial action includes, inter alia: (i) Institutional restrictions to prevent use of on-site groundwater for drinking and prohibit disturbing the cap over the contamination, and (ii) continued operation and maintenance of the following previously installed features: a fence around the contamination, a clay cover complying with Pennsylvania's requirements for solid waste caps, a ground water dam to prevent contamination from reaching the nearby Shenango River, and a groundwater/leachate collection and treatment system. EPA estimates the cost of performing the ROD will be approximately $2.5 million.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Washington, D.C. 20530, and should refer to *United States* v. *Air Products and Chemicals, Inc., et al.,* Civil Action No. 00–109 (W.D. Pa.), DOJ Ref. #90–11–2–1234/1. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d).

The proposed consent decree may be examined and copied at the Office of the United States Attorney, 633 United States Post Office and Courthouse, Pittsburgh, PA 15219; or at the Region III Office of the Environmental Protection Agency, c/o Thomas Cinti, Assistant Regional Counsel, 1650 Arch Street, Philadelphia, PA 19103. A copy of the proposed consent decree may be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box No. 7611, Washington, D.C. 20044. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $21.25 (25 cents per page reproduction costs), payable to the Consent Decree Library. A copy of the exhibits to the decree may be obtained from the same source for an additional charge.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–4508 Filed 2–24–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that two proposed consent decrees in *United States* v. *Associated Grocers, Inc. and Fog-Tite, Inc.,* Civil Action No. 00–0167–R, were lodged on February 3, 2000, with the United States District Court for the Western District of Washington. The consent decrees require the defendants Associated Grocers, Inc. and Fog-Tite, Inc. to compensate the trustees for natural resource damages at the Tulalip Landfill Superfund Site, which consist of the State of Washington Department of Ecology, the Tulalip Tribes of Washington, the National Oceanic and Atmospheric Administration of the United States Department of Commerce, and the United States Department of Interior, for natural resource damages at the Tulalip Landfill Superfund Site that have resulted from the release of hazardous substances at the Site. Under the consent decrees Associated Grocers will pay $43,153 for natural resource damages and Fog-Tite will pay $990 for natural resource damages.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decrees. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Associated Grocers, Inc. and Fog-Tite, Inc.,* DOJ Ref. #90–11–3–1412/8.

The proposed consent decrees may be examined at the office of the United States Attorney, 1010 Fifth Avenue, Seattle, WA 98104. Copies of the proposed consent decrees may be obtained by mail from the consent Decree Library, Department of Justice, Environmental Enforcement Section, PO Box 7611, Washington, DC 20044. In requesting copes of both consent decrees, please refer to the referenced case and enclose a check in the amount of $10.00 (25 cents per page

reproduction costs) payable to the Consent Decree Library.

Joel Gross,

Chief, Environmental Enforcement Section, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–4506 Filed 2–24–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on February 3, 2000, a complaint and a proposed consent decree in *United States* v. *Louis Nowakowski and Secure-All, Inc.*, Civil Action No. 00–CV–00240, were lodged with the United States District Court for the District of Columbia.

In this action, the United States seeks recovery of approximately $5.2 million in unreimbursed response costs incurred in relation to the RAMP Industries Site, located in northwest Denver, Colorado under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act. Under the proposed decree, the defendants will pay the sum of $120,000 over a three year period. The settlement sum is based upon the financial inability of these defendants to pay more.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Louis Nowakowski and Secure-All, Inc.*, D.J. Ref. 90–11–2–1290/1.

The proposed consent decrees may be examined at the Office of the United States Attorney, 1961 Stout Street, 11th Floor, Drawer 3608, Denver, CO 80294; and at the U.S. EPA Region VIII, 999 18th Street, Denver, Colorado 80202. A copy of the proposed consent decree may be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, D.C. 20044. In requesting a copy, please enclose a check in the amount of $5.25 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–4402 Filed 2–24–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 190–2000]

Privacy Act of 1974 as Amended by the Computer Matching in Privacy Protection Act of 1988; Computer Matching Program

This corrections notice is published in the **Federal Register** in accordance with the requirements of the Privacy Act, as amended by the Computer Matching and Privacy Protection Act of 1988 (CMPPA) (5 U.S.C. 552a(e)(12)). AAG/A Order No. 190–2000, published on January 27, 2000 (65 FR 4441) announced that the Immigration and Naturalization Service (INS) is participating in computer matching programs with the District of Columbia and seven State agencies, to permit eligibility determinations specified in the notice.

Paragraph Two of the notice incorrectly stated:

Specifically, the matching activities will permit the following eligibility determinations:

* * * * *

(2) The California Department of Social Services will be able to determine eligibility status for the TANF [''Temporary Assistance for Needy Families''] program and the Food Stamps program;

* * * * *

The correct version of Item (2) of Paragraph Two should read:

(2) The California Department of Social Services will be able to determine eligibility status of aliens applying for or receiving benefits under the TANF (''Temporary Assistance for Needy Families'') program and, upon the submission of favorable cost-benefit data to the DOJ Data Integrity Board, will also be able to determine eligibility status of non-TANF Food Stamp applicants and recipients;

* * * * *

Dated: February 10, 2000.

Stephen R. Colgate,

Assistant Attorney General for Administration.

[FR Doc. 00–4401 Filed 2–24–00; 8:45 am]

BILLING CODE 4410–CJ–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Fiat S.p.A., Fiat Acquisition Corporation, New Holland N.V., New Holland, North America, Inc., and Case Corporation, Civil Action No. 99–02927(JR) (D.D.C.); Response to Public Comments

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h), that Public Comments and the Responses of the United States have been filed with the United States District Court for the District of Columbia in *United States* v. *Fiat S.p.A., Fiat Acquisition Corporation, New Holland N.V., New Holland North America, Inc., and Case Corporation*, Civil Action No. 99–02927(JR) (D.D.C. filed Nov. 4, 1999). On November 4, 1999, the United States filed a Complaint alleging that the proposed acquisition of Case Corporation (''Case'') by Fiat S.p.A. and related companies (collectively ''Fiat'') would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment, filed at the same time as the Complaint, permits Fiat to acquire Case, but requires that Fiat divest specified assets used in the manufacture and sale of tractors and hay and forage equipment.

Public comment was invited within the statutory 60-day comment period. The two Comments received, and the Responses thereto, have been filed with the Court and are hereby published in the **Federal Register**. Copies of the Complaint, Hold Separate Stipulation and Order, proposed Final Judgment, Competitive Impact Statement, Public Comments and the Responses of the United States are available for inspection in Room 215 of the Antitrust Division, Department of Justice, 325 7th Street, N.W., Washington, D.C. 20530 (telephone: 202–514–2481) and at the Office of the Clerk of the United States District Court for the District of Columbia, 333 Constitution Avenue, N.W., Washington, D.C.

Copies of any of these materials may be obtained upon request and payment of a copying fee.

Constance K. Robinson,

Director of Operations and Merger Enforcement Antitrust Division.

United States Response to Comments

The United States of America hereby files with the Court the written comments that it received in this case, and its responses thereto, and states:

1. The Complaint in this case, the proposed Final Judgment, and the Hold

Separate Stipulation and Order (''Stipulation'') were filed on November 4, 1999. The United States' Competitive Impact Statement was filed on November 19, 1999.

2. Pursuant to 15 U.S.C. § 16(b), the proposed Final Judgment, Stipulation, and Competitive Impact Statement were published in the **Federal Register** on December 7, 1999 (64 Fed. Reg. 68377–87).

3. Pursuant to 15 U.S.C. § 16(c), a summary of the terms of the proposed Final Judgment and the Competitive Impact Statement were published in The Washington Post, a newspaper of general circulation in the District of Columbia, during the period November 6, 1999 through December 6, 1999.

4. The 60-day comment period specified in 15 U.S.C. § 16(b) ended on February 5, 2000. The United States received two written comments on the proposed settlement: (1) from Mark Zeltwanger of Wyatt Farm Center, on December 27, 1999 (attached as Exhibit 1); and (2) from august P. Hau of Hau Nutrition Service, on November 30, 1999 (attached as Exhibit 3).

5. Pursuant to 15 U.S.C. § 16(d), the United States has considered and responded to these comments. Copies of the United States' responses are attached as Exhibits 2 and 4.

6. The United States is making arrangements to have these comments and the United States' responses thereto published in the **Federal Register,** pursuant to 15 U.S.C. § 16(d). As soon as that publication has been effected, the United States will notify the Court that it has complied with the requirements of the Antitrust Procedures and Penalties Act (''APPA''), 15 § 16(b)–(d), and that the Court may then enter the proposed Final Judgment after it determines that the Judgment serves the public interest.

Dated: February 9, 2000.

Respectfully submitted,

Joan Farragher,

Trial Attorney, U.S. Department of Justice, Antitrust Division, 1401 H Street, N.W. Suite 3000, Washington, D.C. 20530, (202) 307–6355.

Attachment 1

December 27, 1999.

J Robert Kramer II, Chief, Litigation II Section, Antitrust Division, U.S. Department of Justice, 1401 H Street, N.W., Suite 3000, Washington, D.C. 20530.

Dear Sir,

Please be advised that over 1,400 dealers and dealer personnel in North America are very upset over Joel Klein's decision to require New Holland to divest of their Winnipeg, Canada factory and the brand names of Genesis Tractor and versatile tractor in order for the buyout of New Holland and Case–IH to be approved.

To the American farmer this means that one very competitive branch of tractor (New Holland Blue Tractors) has been eliminated from competition and instead of giving the American farmer more choices when he goes to buy a tractor he now only has green or red.

It seems that Mr. Klein did not listen to his staff who tried to tell him this was wrong and succumbed to powerful foreign lobbyists who are only interested in helping their own pockets.

What he has done is already give the John Deere Company a head start in gaining more market share and eventually take over as the only American company producing AG Tractors over 140HP.

Please respond.

Sincerely,

Mark Zeltwanger,

President and CEO Wyatt Farm Center.

Attachment 2

February 9, 2000.

Mark Zeltwanger, President and CEO, Wyatt Farm Center, P.O. Box 59, 66400 St. Rd. 331, Wyatt, IN 46595.

Re: Comment on Proposed Final Judgment in *United States* v. *Fiat S.p.A. et al.* (D.D.C. filed Nov 4, 1999).

Dear Mr. Zeltwanger:

This letter responds to your December 27, 1999 letter commenting on the proposed Final Judgment in *United States* v. *Fiat S.p.A. et al.* (D.D.C. filed Nov 4, 1999), which is currently pending in federal district court in the District of Columbia. The complaint filed by the United States alleges that the proposed acquisition of Case Corporation (''Case'') by Fiat S.p.A. (''Fiat'') would result in a substantial lessening of competition in the manufacture and sale of two-wheel drive (''2WD'') tractors, four-wheel-drive (''4WD'') tractors, and several types of hay and foraging equipment. The proposed Final Judgment would settle the case by requiring the divestiture of New Holland's 2WD and 4WD tractor lines and the sale of Case's interest in Hay and Forage Industries (''HFI''), a joint venture engaged in the manufacture of hay and forage equipment.

In your letter, you express concern that the proposed Final Judgment will result in the elimination of the New Holland tractor lines as a competitive alternative in the marketplace. Specifically, your letter states that ''to the American farmer, this [settlement] means that one very competitive brand of tractor (New Holland blue tractors) has been eliminated from competition[,] and instead of giving the American farmer more choice when he goes to buy a tractor he now only has green [John Deere] and red [Case]''.

The United States disagrees with your assertion that the proposed Final Judgment will reduce the choices available to the American farmer when purchasing a new tractor. Far from being eliminated, the proposed Final Judgment requires that the New Holland tractor lines be sold to another company (or companies) with the capability and will to provide substantial competition in the tractor markets. Farmers will still be able to buy the New Holland tractor lines, and will not suffer a reduction in tractor alternatives because of either Fiat's acquisition of Case or the terms of the proposed Final Judgment. The United States strongly believes the divestitures required by the proposed final Judgment will alleviate the competitive concerns alleged in the Complaint and preserve competition in the 2WD and 4WD tractor markets.

Thank you for bringing your concerns to our attention. I trust you appreciate that we have given them due consideration, and hope this response will help alleviate them. Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(d), a copy of your comment and this response will be published in the **Federal Register** and filed with the Court.

Sincerely yours,

J. Robert Kramer II,

Chief, Litigation II Section.

Attachment 3

HAU NUTRITION SERVICE

5454 Marshview Dr., Hartford, WI 53027, Phone/FAX (414) 644–7806, August P. Hau, Feed Consultant.

Mr. J. Robert Kramer II, Chief Litigation II Section, Anti Trust Division, U.S. Dept. of Justice, 1401 H Street, NW Suite 3000, Washington, DC 20530.

November 30, 1999.

As an agribusiness professional for 16 years, I write to you with great need to stand up against monopolistic control of agriculture in this country. In recent decades the poultry and pork industries have become vertical monopolies. If you doubt this, just ask any family farmer. Feed and milk cooperatives have been allowed to merge to the point where they ''know'' what their few competitor's price will be in future months! This would make our forefathers ill. Some cooperatives have ''no-compete'' clauses with each other. Is this free trade? Implement companies who used to boast about innovation and produce differentiation are now nesting together in hopes of boosting stockholder profits. There is very little competition left. Meanwhile farm costs continue upward.

The recent merger plans between Case/IH and Ford/New Holland is obviously monopolistic to me and most of my farmer customers. Case and IH should not have been allowed to merge in the first case. Ford and New Holland should not have been allowed to merge either. Obviously all four merging is much worse. John Deere is the only other major manufacturer left . . . so would that merger be approved also?

If this is not clearly unfair competition to the Justice Department, then perhaps anti-trust members should resign and let the free market take over. That could work no worse than what I have seen over the past two decades of my adult life. Most all Americans agree Federal Government is too large and incredibly partisan anyway. Please exert your power and stop this merger (along with the Exxon/Mobil plan). If two companies merge to become the largest company in their industry, isn't it clearly monopolistic and

usually negative for workers and consumers alike?

Sincerely,

August P. Hau.

Attachment 4

February 9, 2000.

August P. Hau, Hau Nutrition Service, Hartford, WI 53027.

Re: Comment on Proposed Final Judgment in *United States* v. *Fiat S.p.A. et al.* (D.D.C. filed Nov. 4, 1999).

Dear Mr. Hau:

This letter responds to your November 30, 1999 letter commenting on the proposed Final Judgment in *United States* v. *Fiat S.p.A. et al.* (D.D.C. filed Nov. 4, 1999), which is currently pending in federal district court in the District of Columbia. The Complaint filed by the United States alleges that the proper acquisition of Case Corporation (''Case'') by Fiat S.p.A. (''Fiat'') would result in a substantial lessening of competition in the manufacture and sale of two-wheel drive (''2WD'') tractors, four-wheel-drive (''4WD'') tractors, and several types of hay and foraging equipment. The proposed Final Judgment would settle the case by requiring the divestiture of New Holland's 2WD and 4WD tractor lines and the sale of Case's interest in Hay and Forage Industries (''HFI''), a joint venture engaged in the manufacture of hay and forage equipment.

In your letter, you express concern that Fiat's acquisition of Case will harm consumers of farm equipment. Specifically, your letter states that: ''If two companies merge to become the largest company in their industry, isn't it clearly monopolistic and usually negative for workers and consumers alike?'' Your letter also expresses concern that ''Case and IH [International Harvester]'' and ''Ford and New Holland should not have been allowed to merge'' in previous transactions.

Although the United States agrees that Fiat's acquisition of Case—if allowed to proceed without the required divestitures—would harm farmers who purchase tractors and hay and forage equipment, the proposed Final Judgment does not simply allow Fiat and Case to merge their agricultural equipment business. The United States strongly believes the divestitures required by the proposed Final Judgment will alleviate the competitive concerns alleged in the Complaint and preserve competition in the manufacture and sale of 2WD tractors, 4WD tractors, and hay and forage equipment. Finally, the United States assures you that it thoroughly investigated the mergers of Case/IH and Ford/New Holland and took appropriate enforcement action.

Thank you for bringing your concerns to our attention. I trust you appreciate that we have given them due consideration, and hope this response will help alleviate them. Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(d), a copy of your comment and this response will be published in the Federal Register and filed with the Court.

Sincerely yours,

J. Robert Kramer II,

Chief, Litigation II Section.

[FR Doc. 00–4509 Filed 2–24–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,579; TA–W–35,579A]

Mitchell Energy and Development Corporation Headquartered in Woodlands, TX, Operating Throughout the State of Texas; Mitchell Louisiana Gas Services L.P. and Operating Throughout the State of Louisiana; Notice of Investigation Regarding Termination of Certification of Eligibility To Apply for Worker Adjustment Assistance

Following a Department of Labor investigation under Section 222 of the Trade Act of 1974 and in accordance with Section 223 of the Act, on March 24, 1999, the Department of Labor issued a certification of eligibility to apply for adjustment assistance applicable to workers and former workers of Mitchell Energy and Development Corporation in the State of Texas, TA–W–35,579, and Mitchell Louisiana Gas Services L.P. in the State of Louisiana, TA–W–35,579A. The notice of certification was published in the **Federal Register** on May 21, 1999 (64 FR 27811).

Pursuant to Section 223(d) of the Act and 29 CFR 90.17(a), the Director of the Division of Trade Adjustment Assistance has instituted an investigation to determine whether the total or partial separations of the certified workers in Texas (TA–W–35,579) and Louisiana (TA–W–35,579A) continued to be attributable to the conditions specified in Section 222 of the Act and 29 CFR 90.16(b) in the Departmental regulations.

Pursuant to 29 CFR 90.17(b) the group of workers or any other persons showing a substantial interest in the proceedings may request a public hearing or may make written submissions to show why the certification should not be terminated, provided that such request or submission is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below no later than March 6, 2000.

The record of certification (TA–W–35,579 and TA–W–35,579A) containing non-confidential information is available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room C–4318, Washington, D.C. 20210.

Signed at Washington, D.C. this 9th day of February 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00–4514 Filed 2–24–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for NAFTA Transitional Adjustment Assistance

Petitions for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (P.L. 103–182), hereinafter called (NAFTA–TAA), have been filed with State Governors under Section 250(b)(1) of Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this Notice. Upon notice from a Governor that an NAFTA–TAA petition has been received, the Director of the Division of Trade Adjustment Assistance (DTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes action pursuant to paragraphs (c) and (e) of Section 250 of the Trade Act.

The purpose of the Governor's actions and the Labor Department's investigations are to determine whether the workers separated from employment on or after December 8, 1993 (date of enactment of P.L. 103–182) are eligible to apply for NAFTA–TAA under Subchapter D of the Trade Act because

of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the Director of DTAA at the U.S. Department of Labor (DOL) in Washington, D.C. provided such request if filed in writing with the Director of DTAA not later than March 6, 2000.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Director of DTAA at the address shown below not later than March 6, 2000.

Petitions filed with the Governors are available for inspection at the Office of the Director, DTAA, ETA, DOL, Room C–4318, 200 Constitution Avenue, N.W. Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of February, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

APPENDIX

Subject firm and location	Date received at Governor's Office	Petition No.	Articles produced
Victor Equipment (Co.), Denton, TX	01/28/2000	NAFTA–3,689	Gas apparatus.
Victor Equipment (Co.), Abilene, TX	01/28/2000	NAFTA–3,689	Gas apparatus.
Tweco Products (Co.), Wichita, KS	01/31/2000	NAFTA–3,690	Welding accessories.
S. Bent and Brothers (IUE), Gardner, MA	01/31/2000	NAFTA–3,691	Wooden chairs, tables and case pieces.
Western Moulding (Co.), Snowflake, AZ	01/28/2000	NAFTA–3692	Wood mouldings.
Lower Umpqua Federal Credit Union (Co.), Reedsport, OR	01/27/2000	NAFTA–3,693	Credit union.
Noblesville Casting Division (UAW), Noblesville, IN	01/13/2000	NAFTA–3,694	Jobbing foundry.
White Consolidated Industries (IAMAW), Bloomington, IL	01/31/2000	NAFTA–3,695	Vacuum cleaner parts.
North Carolina Embroidery (Co.), High Point, NC	01/23/2000	NAFTA–3,696	Contract embroidery.
O'Bryan Brothers (Wkrs), Richland Center, WI	01/12/2000	NAFTA–3,697	Women's underwear and day wear.
Jantzen–Nordic Group (Wkrs), Vancouver, WA	01/28/2000	NAFTA–3,698	Swimwear and garment.
Griffin Pipe Products (Co.), Lynchburg, Va	01/31/2000	NAFTA–3,699	Fittings for ductile iron pressure pipe.
Standard Candy (Wkrs), Nashville, TN	01/31/2000	NAFTA–3,700	Hard candy.
Monterey (UNITE), Janesville, WI	01/28/2000	NAFTA–3,701	Fabric and coats.
Shelby Yarn (Co.), Shelby, NC	01/31/2000	NAFTA–3,702	Yarn.
Humpty Dumpty Potato Chips (Co.), Scarborough, ME	01/31/2000	NAFTA–3,703	Potato chips.
Linden Apparel (Wkrs), Allenton, PA	01/31/2000	NAFTA–3,704	Knit golfshirts, polo shirts.
Thaw Corporation—Snow Creek (Co.), Wenatchee, WA	02/03/2000	NAFTA–3,705	Recreational garments.
Danskin (Wkrs), York, PA	02/02/2000	NAFTA–3,706	Women's apparel.
Custom Packaging Systems (Co.), Manistee, MI	01/19/2000	NAFTA–3,707	Polyethylene bulk bags & liner.
Wheat Montana Farms and Bakery (Wkrs), Three Forks, MT	02/03/2000	NAFTA–3,708	Flour, wheat and grains.
Boyt Harness Company (Wkrs), Arlington, SD	02/01/2000	NAFTA–3,709	Hunting pants.
U.S. Leather (IBT), Milwaukee, WI	02/04/2000	NAFTA–3,710	Shoes, botts, belts, patches.
Cadillac Curtain (Co.), Dyer, TN	02/07/2000	NAFTA–3,711	Kitchen curtains.
Medtronic Perfusion Systems (Wkrs), Minneapolis, MN	02/08/2000	NAFTA–3,712	Custom tubing pack.
Wolverine Tube (Wkrs), Roxboro, NC	02/07/2000	NAFTA–3,713	Copper tubes.
Eastman Kodak (Co.), Rochester, NY	01/20/2000	NAFTA–3,714	Document retrieval.
G and M Cutting Room Service (UNITE), El Paso, TX	02/08/2000	NAFTA–3,715	Cut pants and shirts.
Wharton Knitting Mills (Wkrs), Ridgewood, NY	01/26/2000	NAFTA–3,716	Men and women sweaters.
Mitec Wireless (Co.), Tinton Fall, NJ	02/09/2000	NAFTA–3,717	Radio frequency amplifiers.
Oneida Limited (Wkrs), Sherrly, NY	02/11/2000	NAFTA–3,718	Brass products.
Burlington Industries Transportation (Wkrs), Belmont, NC	02/11/2000	NAFTA–3,719	Fabric and carpet.
Ikeda Interior Systems (Wkrs), Sidney, OH	02/10/2000	NAFTA–3,720	Sewing and cutting.
Rockwell Automation (IUE), Euclide, OH	02/10/2000	NAFTA–3,721	Control cabinets.
ITT Jabsco (IBT), Springfield, OH	02/10/2000	NAFTA–3,722	Marine products.
Lees Curtain (Wkrs), Mansfield, MO	02/09/2000	NAFTA–3,723	Curtains.
KeyBank USA (Wkrs), Albany, NY	02/04/2000	NAFTA–3,724	Collection of delinquent loans.
Ochoco Lumber–Malhenr Lumber (Wkrs), John Day, OR	02/08/2000	NAFTA–3,725	Finished lumber.
Trico Products (Wkrs), Lawrenceburg, TN	02/07/2000	NAFTA–3,726	Windshield wiper blades.
Johnstown Knitting Mill (Co.), Johnstown, NY	02/08/2000	NAFTA–3,727	Activewear and knitwear.
Sullivan Die Casting (Wkrs), Kenilworth, NJ	02/14/2000	NAFTA–3,728	Auto mirror casting, sunroof casting.
America Sewn Product (Wkrs), Bremerton, WA	02/10/2000	NAFTA–3,729	Customise bags.
Tibergon (Co.), Redmond, OR	02/14/2000	NAFTA–3,730	Flat jambs, split jambs.

[FR Doc. 00–4513 Filed 2–24–00 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination; Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

New General Wage Determination Decision

The number of the decisions added to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' are listed by Volume and States:

Volume V

Louisiana
LA000048 (Feb. 25, 2000)

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

New Jersey
NJ000001 (Feb. 11, 2000)

Volume II

Pennsylvania
PA000001 (Feb. 11, 2000)
PA000002 (Feb. 11, 2000)
PA000003 (Feb. 11, 2000)
PA000004 (Feb. 11, 2000)
PA000008 (Feb. 11, 2000)
PA000010 (Feb. 11, 2000)
PA000011 (Feb. 11, 2000)
PA000014 (Feb. 11, 2000)
PA000017 (Feb. 11, 2000)
PA000018 (Feb. 11, 2000)
PA000020 (Feb. 11, 2000)
PA000027 (Feb. 11, 2000)
PA000035 (Feb. 11, 2000)
West Virginia
WV000002 (Feb. 11, 2000)
WV000003 (Feb. 11, 2000)
WV000006 (Feb. 11, 2000)

Volume III

Florida
FL000004 (Feb. 11, 2000)
FL000007 (Feb. 11, 2000)
FL000017 (Feb. 11, 2000)
FL000032 (Feb. 11, 2000)
FL000034 (Feb. 11, 2000)
FL000100 (Feb. 11, 2000)
South Carolina
SC000023 (Feb. 11, 2000)

Volume IV

Illinois
IL000002 (Feb. 11, 2000)
IL000006 (Feb. 11, 2000)
IL000008 (Feb. 11, 2000)
IL000009 (Feb. 11, 2000)
Michigan
MI000017 (Feb. 11, 2000)
Minnesota
MN000007 (Feb. 11, 2000)
MN000008 (Feb. 11, 2000)
MN000027 (Feb. 11, 2000)
MN000058 (Feb. 11, 2000)
MN000061 (Feb. 11, 2000)

Volume V

Kansas
KS000002 (Feb. 11, 2000)
KS000006 (Feb. 11, 2000)
KS000007 (Feb. 11, 2000)
KS000008 (Feb. 11, 2000)
KS000009 (Feb. 11, 2000)
KS000011 (Feb. 11, 2000)
KS000013 (Feb. 11, 2000)
KS000015 (Feb. 11, 2000)
KS000016 (Feb. 11, 2000)
KS000018 (Feb. 11, 2000)
KS000019 (Feb. 11, 2000)
KS000020 (Feb. 11, 2000)
KS000021 (Feb. 11, 2000)
KS000022 (Feb. 11, 2000)
KS000023 (Feb. 11, 2000)
KS000025 (Feb. 11, 2000)
KS000026 (Feb. 11, 2000)
KS000028 (Feb. 11, 2000)
KS000035 (Feb. 11, 2000)
KS000069 (Feb. 11, 2000)
KS000070 (Feb. 11, 2000)
Louisiana
LA000004 (Feb. 11, 2000)
LA000005 (Feb. 11, 2000)
LA000009 (Feb. 11, 2000)
LA000018 (Feb. 11, 2000)
LA000049 (Feb. 11, 2000)
Oklahoma
OK000014 (Feb. 11, 2000)
OK000016 (Feb. 11, 2000)
OK000017 (Feb. 11, 2000)
OK000028 (Feb. 11, 2000)

OK000034 (Feb. 11, 2000)
OK000035 (Feb. 11, 2000)
OK000036 (Feb. 11, 2000)
OK000037 (Feb. 11, 2000)
OK000038 (Feb. 11, 2000)
OK000043 (Feb. 11, 2000)
Texas
TX000005 (Feb. 11, 2000)
TX000014 (Feb. 11, 2000)
TX000069 (Feb. 11, 2000)

Volume VI

Idaho
ID000001 (Feb. 11, 2000)
North Dakota
ND000003 (Feb. 11, 2000)
ND000004 (Feb. 11, 2000)
Oregon
OR000001 (Feb. 11, 2000)
OR000017 (Feb. 11, 2000)
Washington
WA000002 (Feb. 11, 2000)
WA000003 (Feb. 11, 2000)
WA000005 (Feb. 11, 2000)
WA000006 (Feb. 11, 2000)
WA000007 (Feb. 11, 2000)
WA000008 (Feb. 11, 2000)
WA000013 (Feb. 11, 2000)

Volume VII

Nevada
NV000003 (Feb. 11, 2000)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts.'' This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC this 17th day of February, 2000.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 00–4265 Filed 2–24–00; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL COUNCIL ON DISABILITY

Advisory Committee Meeting

AGENCY: National Council on Disability (NCD).

ACTION: Advisory Committee Meeting.

SUMMARY: This notice sets forth the schedule of the forthcoming meeting/conference call for NCD's advisory committee—International Watch. Notice of this meeting is required under Section 10(a)(1)(2) of the Federal Advisory Committee Act (P.L. 92–463).

International Watch: The purpose of NCD's International Watch is to share information on international disability issues and to advise NCD's Foreign Policy Team on developing policy proposals that will advocate for a foreign policy that is consistent with the values and goals of the Americans with Disabilities Act.

DATE: March 15, 2000, 2 p.m.–3 p.m. est.

For International Watch Information, Contact: Kathleen A. Blank, Attorney/Program Specialist, National Council on Disability, 1331 F Street NW, Suite 1050, Washington, DC 20004; 202–272–2004 (Voice), 202–272–2074 (TTY), 202–272–2022 (Fax), kblank@ncd.gov (e-mail).

Agency Mission: The National Council on Disability is an independent federal agency composed of 15 members appointed by the President of the United States and confirmed by the U.S. Senate. Its overall purpose is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all people with disabilities, regardless of the nature of severity of the disability; and to empower people with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

This committee is necessary to provide advice and recommendations to NCD on international disability issues.

We currently have balanced membership representing a variety of disabling conditions from across the United States.

Open Meeting/Conference Call: This advisory committee meeting/conference call of the National Council on Disability will be open to the public. However, due to fiscal constraints and staff limitations, a limited number of additional lines will be available. Individuals can also participate in the conference call at the NCD office. Those interested in joining this conference call should contact the appropriate staff member listed above.

Records will be kept of all International Watch meetings/conference calls and will be available after the meeting for public inspection at the National Council on Disability.

Signed in Washington, DC, on February 22, 2000.

Ethel D. Briggs,

Executive Director.

[FR Doc. 00–4524 Filed 2–24–00; 8:45 am]

BILLING CODE 6820–MA–M

NATIONAL COUNCIL ON DISABILITY

International Watch Advisory Committee Meeting

AGENCY: National Council on Disability (NCD).

ACTION: Advisory Committee Meeting.

SUMMARY: This notice sets forth the schedule of the forthcoming meeting for NCD's advisory committee—International Watch. Notice of this meeting is required under Section 10 (a)(1)(2) of the Federal Advisory Committee Act (P.L. 92–463).

International Watch: The purpose of NCDS's International Watch is to share information on international disability issues and to advise NCD's Foreign Policy Team on developing policy proposals that will advocate for a foreign policy that is consistent with the values and goals of the Americans with Disabilities Act.

Date: April 6–7, 2000, 9 a.m.–5 p.m. est.

Location: Washington Marriott Hotel, 1221 22nd Street, NW, Washington, DC 20037

For International Watch Information, Contact: Kathleen A. Blank, Attorney/Program Specialist, National Council on Disability, 1331 F Street NW, Suite 1050, Washington, D.C. 20004; 202–272–2004 (Voice), 202–272–2074 (TTY), 202–272–2022 (Fax), kblank@ncd.gov (e-mail).

Agency Mission: The National Council on Disability is an independent federal agency composed of 15 members appointed by the President of the United States and confirmed by the U.S. Senate. Its overall purpose is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all people with disabilities, regardless of the nature of severity of the disability; and to

empower people with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

This committee is necessary to provide advice and recommendations to NCD on international disability issues.

We currently have balanced membership representing a variety of disabling conditions from across the United States.

Open Meeting: This advisory committee meeting of the National Council on Disability will be open to the public. Those interested in participating should contact the appropriate staff member listed above.

Records will be kept of all International Watch meetings and will be available after the meeting for public inspection at the National Council on Disability.

Signed in Washington, DC, on February 22, 2000.

Ethel D. Briggs,

Executive Director.

[FR Doc. 00–4525 Filed 2–24–00; 8:45 am]

BILLING CODE 6820–MA–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–607]

In the Matter of Department of the Air Force (McClellan Nuclear Radiation Center); Order Approving Transfer of License and Conforming Amendment

I

The United States Air Force (USAF) is the owner of the McClellan Nuclear Radiation Center (MNRC) and is authorized to possess, use, and operate the facility as reflected in Operating License No. R–130. The Nuclear Regulatory Commission issued Operating License No. R–130 on August 13, 1998, pursuant to Part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR Part 50). The facility is located on McClellan Air Force Base in Sacramento, California.

II

By letters dated April 13, 1999, the USAF and the Regents of the University of California (University of California) each submitted an application requesting approval of the proposed transfer of Operating License No. R–130 from the USAF to the University of California. The University of California at Davis (UCD), part of the University of California, was proposed to be the actual operator of the facility. The application was supplemented by submittals dated July 19 and August 4, 1999, and January 18 and 27, 2000. The initial application and the supplements are hereinafter collectively referred to as ''the application'' unless otherwise indicated.

According to the application, the USAF has agreed to convey the MNRC to the University of California. After completion of the proposed license transfer, UCD would be the sole operator of the MNRC. The application also sought the approval of a conforming amendment. This conforming amendment is necessary to remove references to the USAF from the operating license and replace them with references to the UCD, as appropriate, as well as to make other miscellaneous administrative changes to the operating license to reflect the transfer.

Under 10 CFR 50.80, no license for a production or utilization facility, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application and other information before the Commission, the NRC staff has determined that the University of California is qualified to hold the license, and that the transfer of the license to the University of California is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission. The NRC staff has further found that the application for the proposed license amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendment can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendment will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendment will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied. The foregoing findings are supported by a Safety Evaluation dated December 2, 1999.

Accordingly, *It is hereby ordered* that the transfer of the license as described herein to the University of California is approved, subject to the following condition:

Should the transfer of the license not be completed by June 30, 2000, this Order shall become null and void, provided, however, on written application and for good cause shown, such date may in writing be extended.

It is further ordered that, consistent with 10 CFR 2.1315(b), a license amendment that makes changes, as indicated in Enclosure 2 to the cover letter forwarding this Order, to conform the license to reflect the transfer is approved.

This Order is effective upon issuance.

Dated at Rockville, Maryland, this 1st day of February 2000.

For the Nuclear Regulatory Commission.

David B. Matthews,

Director, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 00–4463 Filed 2–24–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Docket No. 50–389

Florida Power & Light Company; Orlando Utilities Commission of The City of Orlando, Florida and Florida Municipal Power Agency; St. Lucie Plant Unit No. 2; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Florida Power and Light Company, et al. (the licensee), to withdraw its May 24, 1999, application for proposed amendment to Facility Operating License No. NPF–16 for the St. Lucie Plant, Unit No. 2, located in St. Lucie County, Florida. The proposed amendment would have revised the Technical Specification (TS) surveillance requirements for the safety injection tank (SIT) and shutdown cooling (SDC) system isolation valves.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on June 10, 1999 (64 FR 35216). However, by letter dated December 13, 1999, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated May 24, 1999, and the licensee's letter dated December 13, 1999, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public

Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 17th day of February 2000.

For the Nuclear Regulatory Commission.

Kahtan N. Jabbour,

Senior Project Manager, Section 2, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–4461 Filed 2–24–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–315 and 50–316]

Indiana Michigan Power Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR–58 and DPR–74 issued to Indiana Michigan Power Company (the licensee) for operation of the Donald C. Cook Nuclear Power Plant, Units 1 and 2, located in Berrien County, Michigan.

The proposed amendments would approve an unreviewed safety question discovered by the licensee during a 10 CFR 50.59 evaluation of modifications to the auxiliary feedwater (AFW) pump rooms to protect the equipment in the rooms from the environmental effects of a postulated high-energy line break (HELB). This will be accomplished by sealing the AFW pump rooms to ensure that the rooms do not communicate with the turbine buildings or each other.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated?

Failures of the proposed MDAFP [motor driven auxilary feedwater pump] and TDAFP [turbine driven auxilary feedwater pump] room cooling systems during either normal operations or emergency operations cannot initiate any of the accidents previously evaluated in the UFSAR. The proposed MDAFP and TDAFP room cooling systems do not interface with the reactor coolant system, containment, or engineered safeguards features in such a way as to be a precursor or initiator for an accident previously evaluated. Therefore, the proposed modifications do not increase the probability of occurrence of an accident previously evaluated.

The proposed MDAFP and TDAFP room cooling systems ensure protection of AFW equipment from the environmental effects of a HELB event. This ensures the AFW system is capable of performing the safety-related functions required to mitigate the effects of design basis accidents. The AFW system is required to mitigate design basis accidents that result in the loss of cooling for the reactor coolant system. These include loss of normal feedwater control, loss of all (non-emergency) alternating-current power (i.e., offsite power) to the plant auxiliaries, steam generator tube rupture, large break loss-of-coolant accidents, and small break loss-of-coolant accidents. In addition, the AFW system is required to safely shutdown the reactor following certain HELB events in the turbine buildings resulting from feedwater and main steam piping breaks and critical cracks. Since the AFW system is assured of performing its intended design function in mitigating the effects of design basis accidents by the proposed modifications, the consequences of accidents previously evaluated in the UFSAR will not be increased.

Therefore, the probability of occurrence or the consequences of accidents previously evaluated are not increased.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

Failures of the proposed MDAFP and TDAFP room cooling systems during either normal operations or emergency operations cannot initiate an accident. The proposed MDAFP and TDAFP room cooling systems do not interface with the reactor coolant system, containment, or engineered safeguards features in such a way as to be a precursor or initiator for an accident.

The proposed modifications to the AFW pump rooms have been designed to ensure that the train failure scenarios and design basis accident mitigation functions for AFW are preserved as described in the CNP [Cook Nuclear Plant] UFSAR. The electrical power supplies and AFW pump room cooler water sources maintain the design basis train alignments. Thus, when postulated design basis accident scenarios and single failures are applied to the proposed AFW pump room modification configurations, the AFW system remains bounded by the accident analysis presented in the UFSAR. The modifications do not impact how the AFW system will actuate and perform in response to those design basis accident scenarios that require AFW to mitigate the events.

Therefore, the change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

The proposed modifications to the MDAFP and TDAFP room ventilation systems do not create a reduction in the margin of safety for those systems, structures, and components required for safe shutdown or accident mitigation as previously analyzed in the UFSAR. The proposed modifications provide a different method for cooling the AFW pump rooms while ensuring environmental protection to each MDAFP and each TDAFP from the effects of postulated HELB events.

As discussed above, the proposed modifications to the AFW pump rooms have been designed to ensure that the train failure scenarios and design basis accident mitigation functions for AFW are preserved as described in the CNP UFSAR. Since the intended safety function of the AFW pump room cooling systems remains the same, margin of safety is preserved. The proposed modifications ensure the availability and reliability of the AFW pumps is maintained commensurate with the assumptions made in the UFSAR accident analyses.

Therefore, the proposed changes do not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92 are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the

amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 27, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to David. W. Jenkins, Esq., American Electric Power, Nuclear Generation Group, One Cook Place, Bridgman, MI 49106, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(I)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated February 18, 2000, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http:www.nrc.gov* (the Electronic Reading Room).

Dated at Rockville, Maryland, this 18th day of February, 2000.

For the Nuclear Regulatory Commission.

John F. Stang,

Senior Project Manager, Section 1, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–4465 Filed 2–24–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Number 40–6622]

Pathfinder Mines Corporation

AGENCY: U.S. Nuclear Regulatory Commission

ACTION: Amendment of Source Material License SUA–442 to change three reclamation milestone dates.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) has amended Pathfinder Mines Corporation's (PMC's) Source Material License SUA–442 to change three reclamation milestone dates. This amendment was requested by PMC in its letter dated October 29, 1999, and the receipt of the request by NRC was noticed in the **Federal Register** on December 16, 1999.

The license amendment modifies License Condition 50 to change completion dates for three site-reclamation milestones. The new dates approved by the NRC extend completion of placement of the interim cover over the tailings pile, completion of placement of the final radon barrier, and completion of placement of the erosion protection cover by two years. PMC attributes the delays to a substantial volume of water still remaining to be evaporated from the tailings system, before an interim cover could be placed. Based on the review of PMC's submittal, the NRC staff concludes that the delays are attributable to factors beyond the control of PMC, the proposed work is scheduled to be completed as expeditiously as practicable, and the added risk to the public health and safety is not significant.

An environmental assessment is not required since this action is categorically excluded under 10 CFR 51.22(c)(11), and an environmental report from the licensee is not required by 10 CFR 51.60(b)(2).

ADDRESS: PMC's amended license, and the NRC staff's technical evaluation of the amendment request are being made available for public inspection at the Commission's Public Document Room at 2120 L Street, NW (Lower Level), Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Mohammad W. Haque, Uranium Recovery and Low-Level Waste Branch, Division of Waste Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 415–6640.

Dated at Rockville, Maryland, this 17th day of February 2000.

Thomas H. Essig,

Chief, Uranium Recovery and Low-Level Waste Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 00–4462 Filed 2–24–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–483]

Union Electric Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–30 issued to Union Electric Company (the licensee) for operation of the Callaway Plant, Unit 1 (Callaway) located in Callaway County, Missouri.

The proposed supplemental amendment request dated February 17, 2000, would revise several sections of the Improved Technical Specification (ITSs) to correct 6 editorial errors made in the application dated May 15, 1997, (and supplementary letters) for the ITSs or in the certified copy of the ITSs that was submitted in the licensee's letters of May 27 and 28, 1999. The ITSs were issued by the staff's letter of May 28, 1999, and will be implemented to replace the current TSs by April 30, 2000. The intent of the application is to correct the ITSs before they are implemented. None of the proposed changes alter any of the requirements in the ITSs.

The proposed changes to the ITSs are the following.

(1) The correct word ''Dump'' will replace the incorrect word ''Pump'' in the table of contents, on ITS page 3, Section 3.7.4, to state the correct name of the section, ''Atmospheric Steam Dump Valves.''

(2) Specification 3.1.8 will be added to item a.7 on ITS page 5.0–29 of Section 5.6.5, ''CORE OPERATING LIMITS REPORT (COLR),'' because this specification also references the shutdown margin in the COLR

(3) The word ''BASIS'' will be spelled correctly in Section 1.1, ''Definitions,'' for the title of staggered test basis on ITS page 1.1–6.

(4) A period will be added after the B in ''B 1.2'' to state Required Action B.1.2 for limiting condition for operation (LCO) 3.4.15 on ITS page 3.4–37.

(5) The apostrophe in the acronym MSSV's will be deleted in Condition B of LCO 3.7.1 on ITS page 3.7–1.

(6) The word ''subsystems'' will be replaced by ''subsystem'' because the word should not be plural, in Required Action A.2.4 of LCO 3.8.5 on ITS page 3.8–25.

The application of February 17, 2000, is a supplemental letter to the licensee's January 14, 2000, application for corrections to the ITSs. In its letter of January 14, 2000 (ULNRC–04172), the licensee proposed to correct 8 editorial errors made in either (1) the application dated May 15, 1997, (and supplementary letters) for the ITSs, or (2) the certified copy of the ITSs that was submitted in the licensee's letters of May 27 and 28, 1999. The notice of consideration for the application of January 14, 2000, will be published in the **Federal Register** on February 23, 2000.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The licensee stated in their supplemental application of February 17, 2000, that the no significant hazards consideration submitted in its original application of January 14, 2000, also applied to the corrections in this supplemental application. The licensee's no significant hazards consideration is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes involve corrections to the ITS that are associated with the original conversion application and supplements or the certified copy of [the] ITS. The changes are considered as administrative changes and do not modify,

add, delete, or relocate any technical requirements of the Technical Specifications. As such, the administrative changes do not effect initiators of analyzed events or assumed mitigation of accident or transient events.

Therefore, these changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes do not involve a physical alteration of the plant (no new or different type of equipment will be installed) or changes in methods governing normal plant operation. The proposed changes will not impose any new or eliminate any old requirements.

Thus, the changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed changes will not reduce a margin of safety because they have no effect on any safety analyses assumptions. The changes are administrative in nature.

Therefore, the changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 27, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a

hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to John O'Neill, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW, Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the supplemental application for amendment dated February 17, 2000, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC, and accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room).

Dated at Rockville, Maryland, this 18th day of February, 2000.

For the Nuclear Regulatory Commission.

Jack N. Donohew,

Senior Project Manager, Section 2, Project Directorate IV and Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–4464 Filed 2–24–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–302]

Florida Power Corporation, et al; Crystal River Unit 3; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Facility Operating License No. DPR–72, issued to Florida Power Corporation (the licensee), for operation of Crystal River Unit 3, located in Citrus County, Florida.

Environmental Assessment

Identification of the Proposed Action

The proposed amendment would revise the Crystal River Unit 3, Technical Specifications, Appendix B, ''Environmental Protection Plan (Non-Radiological)'' (EPP), to incorporate the reasonable and prudent measures, and the terms and conditions, of the Incidental Take Statement included with the Biological Opinion issued by the National Marine Fisheries Service (NMFS), which was forwarded to the licensee by the Commission on July 15, 1999. The proposed amendment will ensure that the information in the Biological Opinion is included in the EPP, and also makes several administrative changes to correct out-dated information.

The proposed action is in accordance with the licensee's application for amendment dated October 12, 1999.

The Need for the Proposed Action

The proposed action would incorporate the reasonable and prudent measures and the terms and conditions of the Incidental Take Statement of the Biological Opinion issued by NMFS into the Crystal River Unit 3 operating license.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that implementation of the Incidental Take Statement in the Crystal River Unit 3 Environmental Protection Plan would support the National Marine Fisheries Service conclusion that the continued operation of the cooling water intake system at the Crystal River Energy Complex is not likely to jeopardize the continued existence of threatened or endangered sea turtle species under NMFS jurisdiction. The Incidental Take Statement identifies actions that have been, or will be, taken by Crystal River to ensure the takes of endangered sea turtles are limited. These actions include a capture and release program for endangered sea turtles stranded on the intake canal bar racks, a program to monitor for endangered sea turtles at the cooling water intakes on a regular basis, and the maintenance of records of sea turtle strandings and takes.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not involve any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the ''no-action'' alternative). Denial of the application would result in Crystal River not implementing the Incidental Take Statement which would lead to takes of endangered sea turtles outside the NMFS Biological Opinion. The environmental impacts of the proposed action are less than the alternative action.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for Crystal River Unit 3.

Agencies and Persons Consulted

In accordance with its stated policy, on January 12, 2000, the staff consulted with William Passetti, Chief, Department of Health, Bureau of Radiation Control, for the state of Florida, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the

human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated October 12, 1999, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http:www.nrc.gov* (the Electronic Reading Room).

Dated at Rockville, Maryland, this 18th day of February 2000.

For the Nuclear Regulatory Commission.

L.A. Wiens,

Senior Project Manager, Section 2, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–4460 Filed 2–24–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting of the Subcommittee on Human Factors; Notice of Meeting

The ACRS Subcommittee on Human Factors will hold a meeting on March 15, 2000, in Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, March 15, 2000—1:00 p.m. until 4:30 p.m.

The Subcommittee will review the proposed Commission paper concerning the NRC program on human performance in nuclear power plant safety, including staff activities associated with quantifying the risk of human performance, the effects of economic deregulation, and latent human errors. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineers named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting the cognizant ACRS staff engineer, Mr. Noel F. Dudley (telephone 301/415–6888) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individuals one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: February 18, 2000.

Howard J. Larson,

Acting Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 00–4466 Filed 2–24–00; 8:45 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee Meeting on Materials and Metallurgy; Notice of Meeting

The ACRS Subcommittee on Materials and Metallurgy will hold a meeting on March 16, 2000, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, March 16, 2000—8:30 a.m. until 4:30 p.m.

The Subcommittee will review the status of the NRC 10 CFR 50.61 pressurized thermal shock (PTS) screening criterion reevaluation project, including the probabilistic fracture mechanics analysis, the expert elicitation process for flaw distribution, and the associated probabilistic risk assessments. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, the Nuclear Energy Institute, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting the cognizant ACRS staff engineer, Mr. Noel F. Dudley (telephone 301/415–6888) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: February 18, 2000.

Howard J. Larson,

Acting Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 00–4467 Filed 2–24–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee Meeting on Thermal-Hydraulic Phenomena; Notice of Meeting

The ACRS Subcommittee on Thermal-Hydraulic Phenomena will hold a meeting on March 14–15, 2000, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The agenda for the subject meeting shall be as follows:

Tuesday, March 14, 2000—8:30 a.m. until the conclusion of business.

Wednesday, March 15, 2000—8:30 a.m. until the conclusion of business.

The Subcommittee will: (1) begin review of the thermal-hydraulic issues associated with the pressurized thermal shock (PTS) Screening Criterion Reevaluation Project being conducted by NRC Office of Nuclear Regulatory Research (RES); (2) continue its review of the NRC staff development of code review guideline documents (Standard Review Plan Section and draft regulatory guide); (3) begin review of NRC staff's acceptance review of the Siemens SRELAP–5 code and the TRACG best-estimate large-break LOCA code; and (4) discuss the status of the NRC staff's review of the EPRI RETRAN–3D code. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Portions of the meeting may be closed, as necessary, to public attendance to discuss information proprietary to the Siemens Power Corporation, GE Nuclear Energy, or the Electric Power Research Institute pursuant to 5 U.S.C. 552b(c)(4).

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman. Written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of Siemens Power Corporation, the NRC staff, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the scheduling of sessions which are open to the public, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting the cognizant ACRS staff engineer, Mr. Paul A. Boehnert (telephone 301/415–8065) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: February 18, 2000.

Howard J. Larson,

Acting Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 00–4468 Filed 2–24–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of February 21, 28, March 6, and 13, 2000.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of February 21

Tuesday, February 22

9:00 a.m.—Briefing on Threat Environment Assessment (Closed-Ex. 1)

10:30 a.m.—Discussion on Management Issues (Closed-Ex. 2&6)

11:00 a.m.—Briefing by the Executive Branch (Closed-Ex. 1)

Wednesday, February 23

8:55 a.m.—Affirmation Session (Public Meeting) (if needed)

9:00 a.m.—Briefing on Status of Spent Fuel Projects (Public Meeting) (Contact: William Brach, 301–415–8500)

11:00 a.m.—Discussion of Intragovernmental Issues (Closed-Ex. 9)

Week of February 28—Tentative

Tuesday, February 29

1:30 p.m.—Briefing on Draft 50.59 Regulatory Guide (Public Meeting) (Contact: Eileen McKenna, 301–415–2189)

Wednesday, March 1

9:00 a.m.—Briefing on Improvements in the Reactor Oversight Process (Public Meeting) (Contact: Bill Dean, 301–415–1257)

Thursday, March 2

9:25 a.m.—Affirmation/Discussion and Vote (Public Meeting) (if needed)

9:30 a.m.)—Meeting with ACRS on Risk Informing Part 50 (Public Meeting) (Contact: John Larkins, 301–415–7360)

Friday, March 3

9:30 a.m.—Briefing on Calvert Cliffs License Renewal (Public Meeting) (Contact: Chris Grimes, 301–415–1183)

Week of March 6—Tentative

Monday, March 6

1:30 p.m.—Meeting with NARUC (Public Meeting)

Week of March 13—Tentative

There are no meetings scheduled for the Week of March 13.

THE SCHEDULE FOR COMMISSION MEETINGS IS SUBJECT TO CHANGE ON SHORT NOTICE. TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING)—(301) 415–1292. CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

The NRC Commission Meeting Schedule can be on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, DC 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: February 21, 2000.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 00–4570 Filed 2–23–00; 11:39 am]

BILLING CODE 7590–01–M

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting

TIMES AND DATES: 1:00 p.m., Monday, March 6, 2000; 8:30 a.m., Tuesday, March 7, 2000.

PLACE: Washington, DC, at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW, in the Benjamin Franklin Room.

STATUS: March 6 (Closed); March 7 (Open).

MATTERS TO BE CONSIDERED:

Monday, March 6—1 p.m. (Closed)
1. eBusiness.
2. Billing and Payment Service.
3. Financial Performance.
4. Compensation Issues.

Tuesday, March 7—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, February 7–8, 2000.
2. Remarks of the Postmaster General/ Chief Executive Officer.
3. Capital Investments.
a. New York, New York, Midtown Station.
b. New York, New York, Ansonia Station.

Tuesday, March 7—8:30 a.m. (Open) [continued]

4. Tentative Agenda for the April 3–4, 2000, meeting in Washington, DC.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Koerber, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–1000. Telephone (202) 268–4800.

Thomas J. Koerber,

Secretary.

[FR Doc. 00–4608 Filed 2–23–00; 2:29 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, 450 5th Street, N.W., Washington, D.C. 20549.

Extension:
Rule 17a–7, SEC File No. 270–238, OMB Control No. 3235–0214
Rule 17a–8, SEC File No. 270–225, OMB Control No. 3235–0235
Rule 17e–1, SEC File No. 270–224, OMB Control No. 3235–0217
Rule 19a–1, SEC File No. 270–240, OMB Control No. 3235–0216
Rule 31a–1, SEC File No. 270–173, OMB Control No. 3235–0178

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget (''OMB'') requests for extension of previously approved collections of information described below.

Rule 17a–7 [17 CFR 270.17a–7] under the Investment Company Act of 1940 (the Act) is entitled ''Exemption of certain purchase or sale transactions between an investment company and certain affiliated persons thereof.'' It provides an exemption from section 17(a) of the Act for purchases and sales of securities between registered investment companies that are considered affiliates because of a common adviser, director, or officer. Rule 17a–7 requires investment companies to keep various records in connection with purchase or sale transactions affected by the rule. The rule requires the board of directors of an investment company to establish procedures reasonably designed to ensure that all conditions of the rule have been satisfied, and requires the investment company to maintain and preserve permanently a written copy of those procedures. In an investment company enters into a purchase or sale transaction with an affiliated person, the rule requires the investment company to maintain written records of the transaction for a period of not less than six years from the end of the fiscal year in which the transaction occurred.[1] In addition, under the rule, the board is required to determine, at least on a quarterly basis, that all affiliated transactions made during the preceding quarter were made in compliance with these established procedures. The Commission's examination staff uses these records to evaluate transactions between affiliated investment companies for compliance with the rule.

The Commission estimates that approximately 750 investment companies enter into transactions affected by rule 17a–7 each year.[2] The average annual burden for rule 17a–7 is estimated to be approximately two burden hours per respondent,[3] for an annual total of 1,500 burden hours for all respondents. The collection of information required by rule 17a–7 is necessary to obtain the benefits of the rule. Responses will not be kept confidential.

Rule 17a–8 [17 CFR 270.17a–8] under the Act is entitled ''Mergers of certain affiliated investment companies.'' Rule 17a–8 exempts certain mergers and similar business combinations (''mergers'') of affiliated registered investment companies (''funds'') from section 17(a)'s prohibitions on purchases and sales between a fund and its affiliates. The rule requires fund directors to consider certain issues and to record their findings in board minutes. The average annual burden of meeting the requirements of rule 17a–8 is estimated to be 1.5 hours for each fund. The Commission staff estimates that approximately 80 funds rely on the rule each year. The estimated total average annual burden for all respondents therefore is 120 hours.

The collection of information required by rule 17a–8 is required to obtain the benefits of the rule. Responses will not be kept confidential. Pursuant to rule 31a–2 under the Investment Company Act [17 CFR 270.31a–2], a fund is required to maintain permanently the minutes of its board meetings.

Rule 17e–1 [17 CFR 270.17e–1] under the Act is entitled ''Brokerage Transactions on a Securities Exchange.'' The rule governs the remuneration that a broker affiliated with an investment company may receive in connection with securities transactions by the investment company. The rule requires an investment company's board of directors to establish, and review as necessary, procedures reasonably designed to provide that the remuneration to an affiliated broker is a fair amount compared to that received by other brokers in connection with transactions in similar securities during a comparable period of time. Each quarter, the board must determine that all transactions effected with affiliated brokers in the preceding quarter complied with the procedures established under the rule. Rule 17e–1 also requires the investment company to (i) maintain permanently a written copy of the procedures adopted by the board for complying with the requirements of the rule; and (ii) maintain for a period of six years a written record of each transaction subject to the rule, setting

[1] The written records are required to set forth a description of the security purchased or sold, the identity of the person on the other side of the transaction, and the information or materials upon which the board of directors' determination that the transaction was in compliance with the procedures.

[2] Based on the experience of the Commission's examination and inspections staff, the Commission staff estimates that most investment companies (3,000 of the estimated 3,560 registered investment companies) have adopted procedures for compliance with rule 17a–7. Of these 3,000 investment companies, the Commission staff assumes that each year approximately 25% (750) enter into transactions affected by rule 17a–7.

[3] This estimate is based on conversations with attorneys familiar with the information collection requirements of rule 17a–7.

forth: the amount and source of the commission, fee or other remuneration received; the identity of the broker, the terms of the transaction; and the materials used to determine that the transactions were effected in compliance with the procedures adopted by the board. The Commission's examination staff uses these records to evaluate transactions between investment companies and their affiliated brokers for compliance with the rule.

The Commission staff estimates that approximately 1,850 investment companies may rely on rule 17e–1 each year.[4] The total average annual burden for rule 17e–1 per respondent is estimated to be approximately 10 burden hours,[5] for an annual total of approximately 18,500 burden hours for all respondents.

Compliance with the collection of information required by rule 17e–1 is necessary to obtain the benefit of the rule. Responses will not be kept confidential.

Section 19(a) [15 U.S.C. 80a–19(a)] of the Act makes it unlawful for any registered investment company to pay any dividend or similar distribution from any source other than the company's net income, unless the payment is accompanied by a written statement to the company's shareholders which adequately discloses the sources of the payment. Section 19(a) authorizes the Commission to prescribe the form of the statement by rule.

Rule 19a–1 [17 CFR 270.19a–1] under the Act is entitled ''Written Statement to Accompany Dividend Payments by Management Companies.'' Rule 19a–1 sets forth specific requirements for the information that must be included in statements made under section 19(a) by registered investment companies. The rule requires that the statements indicate what portions of the payment are made from net income, net profits and paid-in capital.[6] When any part of the payment is made from net profits, the rule requires that the statement disclose certain other information relating to the appreciation or depreciation of portfolio securities. If an estimated portion of the payment is subsequently determined to be significantly inaccurate, a correction must be made on a statement made under section 19(a) or in the first report to shareholders following the discovery of the inaccuracy. The purpose of rule 19a–1 is to afford fund shareholders adequate disclosure of the sources from which dividend payments are made.

The Commission staff estimates that approximately 6,700 portfolios of management companies may be subject to rule 19a–1 each year.[7] The total average annual burden for rule 19a–1 per portfolio is estimated to be approximately 30 minutes.[8] The total annual burden for all portfolios therefore is estimated to be approximately 3,350 burden hours.

Compliance with the collection of information required by rule 19a–1 is mandatory for management companies that make written statements to shareholders pursuant to section 19(a) of the Act. Responses will not be kept confidential.

Rule 31a–1 [17 CFR 270.31a–1] under the Act is entitled ''Records to be maintained by registered investment companies, certain majority-owned subsidiaries thereof, and other persons having transactions with registered investment companies.'' ''Rule 31a–1 requires registered investment companies (''funds''), and every underwriter, broker, dealer, or investment adviser that is a majority-owned subsidiary of a fund, to maintain and keep current account, books, and other documents which constitute the record forming the basis for financial statements required to be filed pursuant to section 30 of the Act [15 U.S.C. 80a–30] and of the auditor's certificates relating thereto. The rule lists specific records to be maintained by funds. The rule also requires certain underwriters, brokers, dealers, depositors, and investment advisers to maintain the records that they are required to maintain under federal securities laws. The Commission periodically inspects the operations of funds to insure their compliance with the provisions of the Act and the rules thereunder. The books and records required to be maintained by rule 31a–1 constitute a major focus of the Commission inspection program.

There are approximately 4,295 investment companies registered with the Commission, all of which are required to comply with rule 31a–1. For purposes of determining the burden imposed by rule 31a–1, the Commission staff estimates that each registered investment company is divided into approximately four series, on average, and that each series is required to comply with the recordkeeping requirements of rule 31a–1. Based on conversations with fund representatives, it is estimated that rule 31a–1 imposes an average burden of approximately 1,200 hours annually per series for a total of 4,800 annual hours per investment company. The estimated total annual burden for all 4,295 investment companies subject to the rule therefore is approximately 20,616,000 hours. Based on conversations with fund representatives, however, the Commission staff estimates that even absent the requirements of rule 31a–1, most of the records created pursuant to the rule are the type that generally would be created as a matter of normal business custom and to prepare financial statements.

The collection of information required by rule 31a–1 is mandatory. Responses will not be kept confidential. The records required by rule 31a–1 are required to be preserved pursuant to rule 31a–2 under the Investment Company Act [17 CFR 270.31a–2]. Rule 31a–2 requires that certain of these records be preserved permanently, and that others be preserved six years from the end of the fiscal year in which any transaction occurred. In both cases, the records should be kept in an easily accessible place for the first two years.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

---

[4] Item 14 of Form N–SAR requires investment companies to list any affiliated brokers or dealers. Based on the Form N–SARs filed for the six-month period ended August 31, 1999, it is estimated that approximately 1,850 investment companies have affiliated broker dealers, and may be subject to rule 17e–1 each year.

[5] This estimate is based on conversations with attorneys familiar with the information collection requirements of rule 17e–1.

[6] Rule 19a–1 requires, among other things, that every written statement made under section 19 of the Act by or on behalf of a management company clearly indicate what portion of the payment per share is made from the following sources: net income for the current or preceding fiscal year, or accumulated net income, or both, not including in either case profits or losses from the sale of securities or other properties; accumulated undistributed net profits from the sale of securities or other properties; and paid-in surplus or other capital source.

[7] The Commission staff estimates that there are approximately 3,000 registered investment companies that are ''management companies'' as defined by the Act, and each may have one or more separate portfolios that report dividends to shareholders. The Commission's records indicate that those 3,000 management companies have approximately 6,700 portfolios that report paying dividends, and so may be subject to rule 19a–1.

[8] According to respondents, no more than approximately 15 minutes is needed to make the determinations required by the rule and include the required information in the shareholders' dividend statements. The Commission staff estimates that, on average, each portfolio mails two notices per year to meet the requirements of the rule, for an average total annual burden of approximately 30 minutes.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Officer of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: February 16, 2000.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–4380 Filed 2–24–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Cablevision Systems Corporation, Class A Common Stock, Par Value $.01 per Share) File No. 1–14764

February 16, 2000.

Cablevision Systems Corporation (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw the security specified above (''Security'') from listing and registration on the American Stock Exchange LLC (''Amex'').

The Security has been listed for trading on the Amex and became listed as well on the New York Stock Exchange, Inc. (''NYSE''), pursuant to a Registration Statement on Form 8–A filed with the Commission which became effective on December 3, 1999. Trading in the Security on the NYSE commenced, and was simultaneously suspended on the Amex, at the opening of business on December 7, 1999.

The Company has complied with Amex Rule 18 by filing with the Amex a certified copy of the preambles and resolutions adopted by the Company's Board of Directors authorizing the withdrawal of its Security from listing and registration on the Amex and by setting forth in detail to the Amex the reasons for such proposed withdrawal and the facts in support thereof. The Amex has in turn informed the Company that it has no objection to the proposed withdrawal of the Company's Security from listing and registration on the Amex.

In making the decision to withdraw the Security from listing on the Amex in conjunction with its new listing on the NYSE, the Company hopes the NYSE listing will provide better marketplace visibility for its Security than did the Amex.

The Company's application relates solely to the withdrawal of the Security from listing and registration on the Amex and shall have no effect upon the Security's continued listing and registration on the NYSE. By reason of Section 12(b) of the Act[3] and the rules and regulations of the Commission thereunder, the Company shall continue to be obligated to file reports with the Commission under Section 13 of the Act.[4]

Any interested person may, on or before March 9, 2000, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–4418 Filed 2–24–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–24291; File No. 812–11840]

Mutual of America Life Insurance Company, et al.

February 17, 2000.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: Mutual of America Life Insurance Company (''Mutual of America''), Mutual of America Separate Account No. 2 (the ''Mutual Annuity Account''), Mutual of America Separate Account No. 3 (the ''Mutual VUL Account''), The American Life Insurance Company of New York (''American Life''), The American Separate Account No. 2 (the ''American Annuity Account''), and The American Separate Account No. 3 (the ''American VUL Account'').

RELEVANT SECTIONS OF THE ACT: Order requested pursuant to Section 17(b) granting an exemption from Section 17(a) and pursuant to Section 11(a) approving the terms of certain offers of exchange.

SUMMARY OF APPLICATION: Applicants seek an order that would (1) permit the transfer of assets from the American Annuity Account and American VUL Account (the ''American Accounts'') to the Mutual Annuity Account and Mutual VUL Account (the ''Mutual Accounts'') in connection with the assumption reinsurance by Mutual of America from American Life of the Contracts and Policies to which those assets relate, and (2) approve the terms of the offers of exchange of interests in the American Accounts for interests in the Mutual Accounts to the extent the exemption under Rule 11a–2 is not available for those offers.

FILING DATE: The application was filed on November 4, 1999, and amended and restated on February 16, 2000.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be in writing and should be received by the SEC by 5:30 p.m. on March 10, 2000. Any request must be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Applicants, c/o Deborah S. Becker, Esquire, Mutual of America Life Insurance Company, 320 Park Avenue, New York, New York 10022.

FOR FURTHER INFORMATION CONTACT: Ann L. Vlcek, Senior Counsel, or Susan M. Olson, Branch Chief, Office of Insurance

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78m.

[5] 17 CFR 200.30–3(a)(1).

Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the amended and restated application. The complete amended and restated application is available for a fee from the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549–0102 (tel. (202) 942–8090).

Applicants' Representations

1. Mutual of America is a mutual life insurance company organized under the laws of the State of New York in 1945. Mutual of America is authorized to sell individual and group life insurance policies and variable annuity contracts in 50 states and the District of Columbia. It has been granted variable universal life authority in 47 states and the District of Columbia and has applied for authority in the remaining 3 states.

2. The Mutual Annuity Account is a separate account of Mutual of America established for the purpose of providing an investment medium for variable contracts, including individual annuities. It is registered under the Act as a unit investment trust (File No. 811–4679), and three registration statements on Form N–4 filed pursuant to the Securities Act of 1933 (''1933 Act'') are in effect for sales of interests under group and individual variable accumulation annuity contracts (File Nos. 2–90201, 33–5609 and 33–11023). One registration statement covers several forms of contracts, including Individual Retirement Annuity (''IRA'') contracts and Flexible Premium Deferred Annuity (''FPA'') contracts. The IRA and FPA contracts issued by Mutual of America are herein called the ''Mutual Contracts.''

3. The Mutual VUL Account is a separate account of Mutual of America established for the purpose of providing an investment medium for variable contracts, including individual life policies. The Mutual VUL Account is registered under the Act as a unit investment trust (File No. 811–9487), and a registration statement on Form S–6 filed pursuant to the 1933 Act is in effect for sales of interest under individual variable universal life insurance policies (herein called the ''Mutual Policies'') (File No. 333–83413). Mutual of America began offering the Mutual Policy on February 1, 2000 in states that have approved the Mutual Policy form, and the Mutual VUL Account will begin operations when sales commence.

4. American Life is a stock life insurance company organized under the laws of the State of New York in 1955. American Life is a wholly-owned subsidiary of Mutual of America. American Life is authorized to sell individual and group life insurance and annuities, including variable annuities and variable life policies, in 50 states, the District of Columbia and the United States Virgin Islands.

5. The American Annuity Account is a separate account of American Life established for the purpose of providing an investment medium for variable contracts, including individual annuities. The American Annuity Account is registered under the Act as a unit investment trust (File No. 811–7904), and a registration statement on Form N–4 filed pursuant to the 1933 Act is in effect for sales of interests under IRA contracts and FPA contracts, which are individual variable accumulation annuity contracts (File No. 33–66406). The IRA and FPA contracts issued by American Life are herein called the ''Contracts.'' Under an administrative services agreement between Mutual of America and American Life, Mutual of America provides all administrative services for the Contracts.

6. The American VUL Account is a separate account of American Life established for the purpose of providing an investment medium for variable contracts, including individual life policies. The American VUL Account is registered under the Act as a unit investment trust (File No. 811–8368), and a registration statement on Form S–6 filed pursuant to the 1933 Act is in effect for sales of interests under individual variable universal life insurance policies (herein called the ''Policies'') (File No. 33–75280). Under an administrative services agreement between Mutual of America and American Life, Mutual of America provides all administrative services for the Policies.

7. The Mutual Annuity Account and the American Accounts currently hold assets in their respective seventeen subaccounts (''investment funds''), each of which invests in shares of a corresponding mutual fund portfolio (collectively, the ''Underlying Funds.''). Each of the Underlying Funds is a series of a management investment company registered under the Act and its shares are registered for sale under the 1933 Act. Assets of the Mutual VUL Account when it commences operations also will be held in seventeen subaccounts, each of which will invest in shares of one of the Underlying Funds.

8. The Contracts and Mutual Contracts are identical, except that owners of Mutual Contracts have the right to participate in the divisible surplus of Mutual of America, a mutual company. The Mutual Policies when issued will be identical to the Policies, except that owners of Mutual Policies will have the right to participate in the divisible surplus of Mutual of America.

9. The Underlying Funds, the current administrative charges and the maximum permitted administrative charges, the mortality and expense risk charges, and the rates for the cost of insurance charges in the case of the Mutual Policies, are identical under the Mutual Contracts and Mutual Policies and the Contracts and Policies, respectively. The unit values for the investment funds of the Mutual Annuity Account and the American Annuity Account are identical. The unit values for the investment funds of the Mutual VUL Account when it begins operations will be set at the then current unit values of the corresponding investment funds of the American VUL Account, so that unit values for those accounts will be identical.

10. Mutual of America serves as the principal underwriter of the Mutual Contracts, the Contracts and the Policies, and it will serve as the principal underwriter for the Mutual Policies. It is a broker-dealer registered under the Securities Exchange Act of 1934 and a member of the National Association of Securities Dealers, Inc.

11. As part of a consolidation by Mutual of America of its insurance operations, American Life will cede, and Mutual of America will reinsure and assume, a substantial portion of the outstanding Contracts and Policies issued by American Life. Mutual of America acquired American Life in 1988 to allow Mutual of America to write, through a subsidiary company, certain insurance and annuity business that had become taxable to Mutual of America as a result of the Tax Reform Act of 1986. On January 1, 1998, all of Mutual of America's business became subject to corporate federal income taxes. As a consequence, Mutual of America no longer needs to separate the business currently issued by American Life from Mutual of America's other business. Mutual of America believes that by combining all of the insurance operations into one entity, it will further enhance service to its contract and policy owners and obtain economies of scale. Mutual of America intends to sell all of the outstanding shares of American Life at the time of, or subsequent to, completion of the assumption reinsurance transactions described herein.

12. American Life and Mutual of America have entered into an individual reinsurance and assumption agreement (the ''assumption agreement'') relating to various individual annuity contracts

and individual life policies, including substantially all Contracts and Policies. In the assumption agreement, American Life agrees to transfer all of its obligations, rights and liabilities under the Contracts and Policies of Mutual of America on an assumption reinsurance basis, and Mutual of America agrees to assume all such obligations, rights and liabilities transferred to it. The assumption reinsurance transactions under the assumption agreement are proposed to be effective April 1, 2000. No fee or commission is payable by American Life, the American Accounts, Mutual of America, the Mutual Accounts, or any other person with respect to the assumption agreement. American Life will accept contributions under outstanding Contracts and premiums under outstanding Policies until they are assumption reinsured. Thereafter, contributions and premiums will be payable to Mutual of America. The assumption reinsurance transactions described herein will not be consummated for the Contracts and Policies unless Applicants obtain from the Commission all necessary orders for exemptive or other relief, and have effective registration statements that will cover the contributions and premiums under Contracts and Policies reinsured by Mutual of America. In addition, the assumption reinsurance transactions are subject to certain state insurance regulatory approvals, and owners of the Contracts and Policies (''Owners'') must give affirmative or deemed consent to the assumption, as described below. The Boards of Directors of Mutual of America and American Life have adopted resolutions approving the proposed assumption reinsurance transactions.

13. Mutual of America will issue assumption certificates to Owners of the Contracts and Policies it assumption reinsures. The assumption certificates will have been approved for use by the appropriate state insurance regulatory authorities. Each assumption certificates will inform the Owner of the assumption by Mutual of America of all of American Life's obligations under the Contract or Policy and make the Owner a participating policy owner of Mutual of America. After assumption, an Owner will deal directly with Mutual of America, any further contributions or premiums the Owner wishes to apply to the Contract or Policy will be forwarded directly to Mutual of America for allocation to the Mutual Annuity Account or Mutual VUL Account, as applicable, and American Life will not longer have any obligations under the assumed Contract or Policy.

14. Several jurisdictions require Owners to affirmatively consent to the assumption reinsurance of their Contracts and Policies by Mutual of America. Requests for consent and election forms used in these states will be in the form and sent on the schedule required by applicable state insurance provisions. A number of jurisdictions require Applicants to grant Owners the right to ''opt out'' of the assumption reinsurance of their Contracts or Policies, pursuant to which Owners must be sent two or more opt out notices within specified time periods before their consent can be ''deemed'' to have been given American Life and Mutual of America will seek the affirmative consent of Owners in these states instead of sending multiple opt out notices. A majority of states do not have statutory provisions for affirmative or deemed consent, and Mutual of America will provide opt out rights to Owners in these states pursuant to which Owners will be sent at least one notice of the right to opt out of the assumption reinsurance, along with an election form and a stamped self-addressed envelope, 30 to 60 days prior to the scheduled date of assumption reinsurance of their Contracts and Policies. The New York States Insurance Department will not permit Mutual of America to assumption reinsure any Contracts or Policies issued to residents of New York if the Owners are no longer New York residents and, accordingly, such Owners will not be asked for consent to the assumption reinsurance of their Contracts and Policies. Applicants believe their there will be no tax consequences to an Owner resulting from exercise of the opt out right.

15. Mutual of America will not assumption reinsure Contracts and Policies when Owners must give affirmative consent until the consents have been obtained. For Owners with opt out rights, Mutual of America will assumption reinsure their Contracts and Policies on the effective date of the assumption agreement, unless American Life receives timely notice of the exercise of opt out rights. Any Owner who is a resident of New York (or a resident of any other state when that state's insurance department or insurance law provisions so require) may opt out of the assumption reinsurance, even if the exercise period for the opt out has expired, until the time the Owner takes some action directed towards Mutual of America that recognizes the assumption reinsurance of the Contract or Policy, such as making a payment, receiving a benefit, or completing an administrative form. If an Owner opts out after the assumption reinsurance transaction has occurred, the Owner will be restored to the same position he or she would have had if the transaction had not taken place.

16. After the effective date of the assumption agreement and before the closing date of Mutual of America's sale of American Life to a third party, Mutual of America and American Life may make an additional request for consent to assumption to Owners whose Contracts and Policies have not yet been assumptions reinsured for any reason, including the exercise of opt out rights, failure to affirmatively consent, or residence in a state that did not approve the transactions prior to the effective date of the assumption agreement. Mutual of America and American Life will comply with applicable state insurance laws in making any additional requests, including amending the assumption agreement or entering into an additional assumption reinsurance agreement with terms substantially identical to those of the assumption agreement. Owners who do not consent to the reinsurance of their Contracts and Policies at this time will remain with American Life, and their Contract and Policy account balances will be based on the American Annuity Account or American Life VUL Account, as applicable.

17. Upon a closing of assumption reinsurance transactions, assets of the American Annuity Account equal to the contract liabilities attributable to the variable portion of the Contracts being assumption reinsured will be transferred to the Mutual Annuity Account, and assets of the American VUL Account equal to the contract liabilities attributable to the variable portion of the Policies being assumed reinsured will be transferred to the Mutual VUL Account. Assets in each of the American Accounts, as well as the Mutual Accounts, are segregated from General Account assets and are not chargeable with liabilities from any other businesses conducted by American Life or Mutual of America, respectively. American Life also will transfer to Mutual of America, as the effective date of assumption reinsurance, cash and liquid assets in an amount equal to American Life's General Account statutory reserves attributable to the Contracts and Policies being assumed.

18. If an Owner exercises an opt out right after the Owner's Contract or Policy has been assumption reinsured, the assets equal to the contract liabilities attributable to the variable portion of the Owner's Contract or Policy will be

transferred from the related Mutual Account back to the appropriate American Account.

19. No change in any terms of the Contracts or Policies will be made by Mutual of America in connection with its assumption reinsurance of the Contracts and Policies, except that Owners will be given the right to participate in the divisible surplus of Mutual of America. The effect of the assumption reinsurance, therefore, will be to change only the identity of the issuing company and depositor of the separate through which the Contracts or Policies are funded.

20. The assumption reinsurance of the Contracts and Policies will not change the separate account charges or other charges under the Contracts and Policies, the number of accumulation units credited under the Contracts and Policies or the value of such units, or the available separate account investment funds through which allocations are made to the Underlying Funds. Owners' account balances under the Contracts and Policies assumption reinsured by Mutual of America will be the same as they would have been had the assumption reinsurance transaction not occurred. Applicants believe there will be no tax consequences, adverse or otherwise, to Owners as a result of the assumption reinsurance of their Contracts and Policies.

21. If Applicants undo the assumption reinsurance of any Contract or Policy upon the exercise by an Owner of an opt out right after the date of the assumption, the number of accumulation units credited under the Contract on Policy and their values will be identical to what they would have been had the assumption reinsurance transaction not occurred.

22. Shares of the Underlying Funds held by the American Accounts that are attributable to the Contracts and Policies being assumed will be transferred to the respective Mutual Accounts. The transfer will be made by book entry on the Underlying Funds' shareholder records, through simultaneous purchase orders by the Mutual Accounts and redemption orders in identical amounts by the American Accounts. Neither the American Accounts, the Mutual Accounts nor the Underlying Funds will incur any charge or expense for the transfer of shares of the Underlying Funds.[1] In addition, the Underlying Funds are not parties to the assumption agreement or transactions, and the terms of the participation agreements pursuant to which they sell shares to the American Accounts and Mutual Accounts are not affected by the assumption transactions. Accordingly, Applicants anticipate that the assumption reinsurance transactions will have no impact on the Underlying Funds.

23. Owners will be sent, at their addresses as shown in American Life's records, a current prospectus for the Mutual Contracts or the Mutual Policies, as appropriate, when they are mailed the initial notice from American Life requesting their affirmative or deemed consent to Mutual of America's assumption of their Contracts or Policies. If Owners are sent additional notices asking for their consent to assumption, these Owners will receive subsequent supplements to the prospectuses and any updated prospectuses, so that Owners will have been sent current prospectuses, as supplemented, at any time they are asked for consent to the assumption reinsurance of their Contracts or Policies.

24. Applicants anticipate that a limited number of Owners will remain with American Life. The terms of the Contracts and Policies will remain unchanged for the Owners who do not consent to assumption reinsurance. Some Policy owners have the option of paying premiums through a payroll deduction arrangement between American Life and their employer. It is possible that an employer may choose not to provide payroll deduction for both Mutual Policies and any remaining Policies owned by employees after the proposed assumption transactions. If an employer terminates its payroll deduction arrangement with American Life, Policy owners who have opted out of the assumption will pay premiums by sending them directly to American Life. Some Contract owners have IRA Contracts purchased under their employer's Simplified Employee Pension (''SEP'') or Savings Incentive Match Plan for Employees (''SIMPLE''). Each employer with a SEP or SIMPLE funded with American Life IRA Contracts is expected to amend its SEP or SIMPLE to provide for funding with Mutual of America IRA Contracts, and as a consequence any Contracts owned by employees who do not consent to assumption reinsurance will not be eligible to receive employer contributions under the employer's SEP or SIMPLE. In such case, those employees are expected to apply for Mutual of America IRA Contracts in order to receive employer contributions. Pursuant to federal tax law provisions, the employees may roll over amounts under their Mutual IRA Contracts to their American Life IRA Contracts or to any other IRA contract. Employees will not pay any surrender or withdrawal charges for rollovers, because the Mutual Contracts do not impose such charges.

Depending on the number of Owners who remain in each of the American Accounts, American Life may seek at a future date to deregister either one or both of the American Accounts pursuant to Section 8(f) of the Act, or it may take such other steps as it deems appropriate to reduce the number of Contracts and Policies outstanding or the administrative burdens presented by such Contracts and Policies. The administrative charges American Life currently imposes under the Contracts and Policies are less than the maximum amounts permitted. American Life, after it is purchased by a third party or in connection with additional requests for consent to Owners after the effective date of the assumption agreement, may increase the administrative charges under the Contracts and Policies.[2]

25. In connection with the sale of American Life's outstanding shares by Mutual of America, American Life and Mutual of America anticipate that they will enter into a new administrative services agreement pursuant to which Mutual of America will perform the administrative services specified therein for the Contracts and Policies remaining with American Life. In addition, Mutual of America and American Life may enter into an indemnity reinsurance agreement covering the Contracts and Policies not transferred to Mutual of America, with terms to be negotiated between Mutual of America and the purchaser of American Life. Under such an agreement, Mutual of America would agree to assume from American Life and indemnify American Life for, and American Life would agree to cede to Mutual of America on an indemnity reinsurance basis, all of American Life's

[1] The transfer of General Account statutory reserves from American Life to Mutual of America for the fixed portion of the Contracts and Policies being assumption reinsured also will be without charge or expense to the Owners.

[2] Owners currently pay a monthly administrative contract fee of $2 per month. American Life may raise this fee to $10 per month for each Policy owner and $2.50 per month for each Contract owner, subject in each case to a limit of ½ of 1% of the Owner's account balance in that month. American Life's current Separate Account administrative charge is 40% of the Separate Account's net assets. Under the Policies, the maximum permitted charge is .65% of net assets. Under the Contracts, the maximum charge against net assets for all expenses, excluding mortality risk, is 2% of net assets. Any increase by American Life in administrative charges will be subject to its continued ability to provide the undertaking to the Commission that the charges under the Contracts and Policies, in the aggregate, are reasonable in relation to the services rendered, the expenses expected to be incurred, and the risks assumed by American Life.

liability under such Contracts and Policies, and American Life would remain liable to Owners for obligations under the Contracts and Policies. If any of the Contracts or Policies subject to an indemnity reinsurance agreement were included in any subsequent assumption reinsurance transaction by Mutual of America, they no longer would be covered by the indemnity reinsurance agreement. Mutual of America also anticipates it will agree with American Life's purchaser that it will continue to serve as the principal underwriter of the Contracts and Policies until the final assumption reinsurance transactions occur or until another date agreed upon by Mutual of America and the purchaser.

Applicants' Legal Analysis

1. Section 17(a) of the Act, in relevant part, makes it unlawful for an affiliated person of or principal underwriter for a registered investment company to knowingly sell to or purchase from the registered company any security or other property, with exceptions not applicable to the transactions described herein.

2. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include any person directly or indirectly controlling, controlled by, or under common control with, such person.

3. Applicants state that the prohibitions of Section 17(a) would prohibit the American Annuity Account's and the American VUL Account's sales of shares of the Underlying Funds to the Mutual Annuity Account and the Mutual VUL Account, respectively, in connection with the assumption reinsurance of the Contracts and Policies, because the American Accounts are affiliated persons of the Mutual Accounts as long as Mutual of America wholly owns American Life. Similarly, Applicants state that Section 17(a) would prohibit the Mutual Accounts' purchase of shares of the Underlying Funds from the American Annuity Account and the American VUL Account, because the Mutual Accounts are affiliated persons of the American Accounts as long as Mutual of America wholly owns American Life. Even if Mutual of America no longer owns any of the outstanding stock of American Life at the time certain of the Contracts and Policies are assumption reinsured, Applicants believe that Section 17(a) may nevertheless apply both to the American Accounts' sales, and to the Mutual Accounts' purchases, of shares of the Underlying Funds because an assumption agreement will have been executed when Mutual of America wholly owns American Life and because it will bind the parties to the assumption reinsurance transactions. Moreover, Applicants state that Mutual of America will continue to act as principal underwriter for the American Accounts until the final assumption reinsurance transactions occur for the Contracts and Policies, which may be after the closing of the sale of American Life by Mutual of America.

4. Section 17(b) of the Act requires the Commission to exempt an affiliated transaction from the provisions of Section 17(a) upon application when the evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, the proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports filed under the Act, and the proposed transaction is consistent with the general purposes of the Act.

5. Applicants therefore request an exemption pursuant to Section 17(b) of the Act from the prohibitions of Section 17(a) to the extent necessary to permit the transfers of shares of the Underlying Funds from the American Accounts to the Mutual Accounts in connection with the assumption reinsurance of the Contracts and Policies as described herein. Applicants submit that the proposed transfers of assets meet the standards for relief under Section 17(b).

6. Applicants submit that the terms of the transfers are reasonable and fair, because the only consideration to be received by the American Accounts and to be paid by the Mutual Accounts is the Mutual Accounts' assumption of the contract liabilities held in the American Accounts for the variable portion of the Contract and Policies being assumption reinsured. Applicants state that the value of the shares of the Underlying Funds to be transferred will equal the amount of the liabilities assumed, and such value will be computed in accordance with provisions of the Act and the rules thereunder. Applicants maintain that the unit values in the American Accounts and Mutual Accounts will not change as a result of the assumption reinsurance, and no person will receive a fee or commission in connection with the assumption reinsurance, so that there is no overreaching by any person in connection with the assumption transactions.

7. Applicants submit that the terms of the transactions are consistent with the politics of each American Account and Mutual Account, because the policy of the American Accounts and the Mutual Accounts is to invest exclusively in shares of the Underlying Funds.

8. Applicants submit that the proposed transactions are consistent with the general purposes of the Act because the interests of Owners are not adversely affected by the reinsurance of the Contracts and Policies. Applicants state that, upon assumption reinsurance the terms of the Contracts and Policies will be the same except for the addition of the right of Owners to participate in the divisible surplus of Mutual of America. Applicants maintain that the number of accumulation units credited to each Owner and the unit values thereof, and therefore each Owner's account balance, will not change as a result of the assumption. Applicants note that Mutual of America has been providing administrative services for the Contracts and Policies, so services provided will remain the same. Applicants state that Mutual of America has wholly owned American Life during the time all of the Contracts and Policies were issued, and the proposed reinsurance of the Contracts and Policies affords Owners the opportunity to have their Contracts and Policies remain with the Mutual of America group of companies, notwithstanding Mutual of America's anticipated sale of the outstanding stock of American Life. Applicants note that Mutual of America is a larger company than American Life with significant greater assets and surplus to support its obligations under the assumed Contracts and Policies.

9. Applicants note that the Commission has previously granted exemptive relief under Section 17(b) to applicants for transactions similar to Applicants' proposed assumption reinsurance transactions.[3] Applicants

[3] A number of orders have related to the transfer of assets between separate accounts of affiliated companies, see, e.g., Security First Life Insurance Company et al., Inv. Co. Act Rel. Nos. 22263 (Oct. 4, 1996) (notice) and 22309 (Oct. 31, 1996, as corrected Nov. 4, 1996) (order); Sentry Life Insurance Company, et al., Inv. Co. Act Rel. Nos. 20576 (Sept. 26, 1994) (notice) and 20654 (Oct. 25, 1994) (order); Hartford Life and Accident Insurance Company, et al., Inv. Co. Act Rel. Nos. 19800 (Oct. 18, 1993) (notice) and 19878 (Nov. 16, 1993) (order); and Family Life Insurance Company, et al., Inv. Co. Act Rel. Nos. 18179 (June 3, 1991) (notice) and 18217 (July 2, 1991) (order). All transfers other than those in Hartford Life were in contemplation of the sale of the affiliated corporation from which the contracts were being assumption reinsured. Several orders have concerned the transfer of assets between separate accounts of non-affiliated companies, see e.g., The Lincoln National Life Insurance Company, et al., Inv. Co. Act Rel. Nos. 22189 (Aug. 29, 1996) (notice) and 22251 (Sept. 26, 1996) (order); AUSA Life Insurance Company, Inc. et al., Inv. Co. Act Rel. Nos. 20518 (Aug. 31, 1994) (notice) and 20587 (Sept. 28, 1994) (order); and

Continued

assert that the assumption reinsurance transactions for which orders were granted in Security First Life Insurance Company et al., Sentry Life Insurance Company, et al., Hartford Life and Accident Insurance Company et al., and Family Life Insurance Company, et al.[4] were substantially similar to the assumption reinsurance transactions proposed by Applicants. According to the Applicants, the applicants for these previous orders represented that the contracts, when assumed, would be identical or identical in all material respects to the ceded contracts, except for the change in the identity of the issuing company and depositor of the separate account funding the contracts. Applicants maintain that these applicants also represented that the underlying investment fund, separate account unit values, and owners' account balances would be unchanged by the assumption reinsurance transactions, as is the case for the assumption reinsurance transactions proposed by Applicants. On the basis of these precedents and Applicants' fulfillment of the requirements for exemptive relief set forth in Section 17(b), Applicants submit that the exemption they have requested from Section 17(a) should be granted.

10. Section 11(a) of the Act makes it unlawful for a registered open-end investment company or its principal underwriter to offer securities of an investment company in exchange for other securities of the same or another investment company, unless the exchange either is based on the respective net asset values of the securities or the terms of the offer have received prior approval of the Commission. Section 11(c) provides that in the case of a unit investment trust, the prohibition of Section 11(a) is applicable irrespective of the basis of exchange.

11. Rule 11a–2 under the Act exempts from the provisions of Section 11 an offer by a registered separate account or any principal underwriter for such an account to the holder of a security of any other registered separate account having an insurance company depositor or sponsor that is an affiliate of the offering account's depositor or sponsor to exchange his or her security for a security of the offering account when certain conditions are met.

12. Rule 11a–2(b)(1) covers exchanges of variable annuity contracts and provides that for contracts with no front end or deferred sales charges, as is the case for the Contracts and the Mutual Contracts, the only conditions are that an exchange must be made at the relative net asset values of the securities to be exchanged and any administrative fee assessed in connection with the exchange must be disclosed in the prospectus. Rule 11a–2(b)(2) covers exchanges of variable life insurance contracts and provides that an exchange must be made at the relative net asset values of the securities to be exchanged and any administrative fee assessed in connection with the exchange must be disclosed in the prospectus. Rule 11a–2(b)(2) does not permit the imposition of any sales load in connection with an exchange. Applicants state that there is uncertainty that the relief in Rule 11a–2(b) would extend to an offer of exchange of variable life insurance contracts.

13. Applicants state that, in the majority of states, Owners will be notified of the assumption reinsurance of their Contracts or Policies and advised that their consent will be deemed if they do not, within the time period specified in the notice, exercise their right to opt out of the assumption reinsurance. Applicants explain that, in a number of states, Owners will be asked for their affirmative consent to the assumption of their Contracts or Policies by Mutual of America. Applicants state that opt our rights and requests for affirmative consents constitute offers of exchange to Owners relating to their variable interests in the American Accounts and the Mutual Accounts, which are registered unit investment trusts, to which the provisions of Sections 11 (a) and (c) will apply.

14. Applicants state that in Alexander Hamilton Funds (available July 20, 1994), the staff of the Commission stated its view that the legislative history of Section 11(a) shows that ''Congress primarily intended to deter switching between affiliated investment funds,'' rather than offers by unaffiliated investment companies, so long as offers are at relative net asset values. The staff noted, however, that ''there may be circumstances when Section 11(a) would apply to exchange offers between unaffiliated funds.'' As an example, in Footnote 4, the staff states that ''Section 11 would apply if two unaffiliated fund complexes agree, formally or informally, to offer a waiver of sales load or some other incentive for an exchange of shares from one fund family to another.'' Applicants state that the American Accounts and Mutual Accounts will no longer be affiliates after Mutual of America sells American Life, and any exchange offers made or transactions effected after the date of sale might be viewed as occurring between non-affiliates and outside the scope of section 11. However, Mutual of America states that it may have an economic incentive to assume the remaining Contracts and Policies, based on its expected role as principal underwriter for those Contracts and Policies, as the provider of administrative services to the purchaser of American Life for the Contracts and Policies, and as the indemnity reinsurer for the Contracts and Policies. In addition, American Life, as previously noted, may increase its administrative charges for the Contracts and Policies not assumed. Applicants therefore believes that Section 11(a) may apply to any offers or exchanges made when American Life is no longer a subsidiary of Mutual of America and consider it appropriate to seek exemptive relief from the provisions of Section 11(a) for any assumption transactions that occur when Rule 11a–2 would not be available.

15. Applicants submit that the offers of exchange involved in the assumption reinsurance of the Contracts will satisfy all of the conditions of Rule 11a–2 and will be permitted by that Rule so long as Mutual of America is an affiliate of American Life at the time the offers are made. Applicants also submit that the offers of exchange involved in the assumption reinsurance of the Policies arguably satisfy the conditions of Rule 11a–2 because the securities involved have no sales loads. Applicants state that Mutual of America will be an affiliate of American Life at the time the assumption agreement is executed, at which time it becomes contractually obligated to assumption reinsure the Contracts and Policies. According to the Applicants, Mutual of America anticipates that it will wholly own American Life at the date most assumption reinsurance transactions occur. Applicants state that the Contracts and the Mutual Contracts, and the Policies and Mutual Policies, do not have any front end sales charges or deferred sales charges, no administrative fee will be assessed in connection with the assumption transactions will be made at the relative net asset values of the securities to be exchanged.

16. Applicants state that Mutual of America intends to sell all of the outstanding shares of American Life, and therefore Mutual of America and American Life may not be affiliates at the time certain of the Contracts and Policies are assumption reinsured by Mutual of America, which would result in the relief afforded by Rule 11a–2

Pacific Corinthian Life Insurance Company, et al., Inv. Co. Act Rel. Nos. 18925 (Sept. 2, 1992) (notice) and 18975 (Sept. 24, 1992) (order).

[4] Refer to the citations in Note 3 above.

being unavailable. Even if Mutual of America and American Life are affiliates at the time of the exchange offers and assumption transactions, Applicants state that there is uncertainty that the exemptive relief provided by Rule 11a–2 would extend to offers of exchange of variable life insurance policies. Accordingly, Applicants request an order pursuant to Section 11(a) approving the terms of any offers of exchange involved in the assumption reinsurance of the Contracts and Policies for which the exemption provided under Rule 11a–2 is unavailable.

17. Applicants submit that the terms of any offers of exchange involved in the proposed assumption reinsurance of the Contracts and Policies by Mutual of America are fair to Owners and should be approved by the Commission. Applicants assert that, since no sales or other charges will be assessed in connection with the assumption reinsurance of the Contracts and Policies by Mutual of America, the sales charge abuse to which Section 11(a) is directed will not be present.[5] Applicants state that the only change resulting from the reinsurance of the Contracts and Policies, which is in effect an exchange of American Contracts and Policies for Mutual Contracts and Policies, is in the identity of the issuing insurance company and the depositor of the separate account through which the Contracts and Policies are funded. Applicants believe as well that there will be no adverse tax consequences for Owners as a result of the exchange offers, the assumption reinsurance, or the decision by any Owners to opt out of assumption reinsurance. Applicants maintain that Mutual of America has substantial assets and surplus to assure the performance of its obligations under the Contracts and Policies, and it currently performs all administrative services for the Contracts and Policies under an agreement with American life.

18. Applicants stated that Owners will receive current prospectuses for the Mutual Contracts or Mutual Policies, as applicable, and will have complete information about the exchange offer in terms of their opt out rights or the requirement for their affirmative consent. Applicants also state that the exchanges of interests will be made on the basis of relative net asset values, and that no provision of the Contracts or Policies will be changed upon their assumption except for the addition of the right to participate in Mutual of America's divisible surplus. According to the Applicants, Owners will have investment funds available in the Mutual Accounts with the same Underlying Funds as prior to the assumption, and the number and value of units credited under the Mutual Contracts and Mutual Policies upon assumption reinsurance will be the same as under the Contracts and Policies.

19. Applicants note that the Commission has previously approved offers of exchange involved in assumption reinsurance transactions in circumstances when Rule 11a–2 would not apply because the insurance companies were not affiliated or might not be affiliated at the time certain exchange offers for variable annuities were made or assumption transactions were consummated.[6] Applicants state that the terms of their proposed exchange offers would satisfy all of the conditions of Rule 11a–2 applicable to affiliated companies if made prior to the sale of American Life and that the offers satisfy the standards of the Commission for determining that the terms of an exchange offer are fair to Owners. On the basis of the precedents cited and the showing by Applicants that the terms of the exchange offers involved are fair, Applicants submit that the requested relief should be granted.

Conclusion

Applicants submit that for the reasons and upon the facts set forth above, the requested exemption pursuant to Section 17(b) from Section 17(a) and the necessary approval pursuant to Section 11(a) should be granted.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–4419 Filed 2–24–00; 8:45 am]

BILLING CODE 8010–01–M

[5] The Commission's Report on the ''Public Policy Implications of Investment Company Growth,'' H.R. Rep. No. 2337 (1966) at p. 331, stated:

Section 11(a) was specifically designed to prevent the practices of ''switching'' and ''reloading'' whereby the holders of securities were induced to exchange their certificates for new certificates on which a new load would be payable.

[6] Family Life Insurance Company, et al., supra note 3, involving assumption reinsurance between affiliates in connection with the sale of the ceding company, and The Lincoln National Life Insurance Company, et al., AUSA Life Insurance Company, Inc. et al., and Pacific Corinthian Life Insurance Company, et al., involving exchange offers under variable annuity assumption reinsurance transactions between non-affiliates when Rule 11a–2 would have been available if the insurance companies had been affiliated.

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–4923]

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Westminster Capital, Inc., Common Stock, Par Value $1.00 per Share)

February 18, 2000.

Westminster Capital, Inc. (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) promulgated thereunder,[2] to withdraw the above specified security (''Security'') from listing and registration on the Pacific Exchange, Inc. (''PCX'' or ''Exchange'').

The Security has been listed for trading on the PCX. Pursuant to Registration Statement on Form 8–A filed with the Commission, which became effective on June 7, 1999, the Security has also been listed on the American Stock Exchange LLC (''Amex''). Trading in the Security on the Amex commenced at the opening of business on June 15, 1999, while continuing to trade on the PCX.

In making the decision to withdraw its Security from listing and registration on the PCX, the Company hopes to avoid the direct and indirect costs of maintaining listings simultaneously on two exchanges. The Company does not see any particular advantage to having its Security trade on two exchanges and believes that this dual trading would result in a fragmentation of the market for its Security.

The Company has complied with the rules of the PCX by filing with the Exchange a certified copy of resolution adopted by the Company's Board of Directors authorizing the withdrawal of its Security from listing on the PCX as well as correspondence setting forth in detail to the PCX the reasons for such proposed withdrawal and the facts in support thereof. The PCX has informed the Company that it has no objection to the withdrawal of the Company's Security from listing and registration on the PCX.

This application related solely to the Security's withdrawal from listing and registration on the PCX and shall have no effect upon the continued listing and registration of such Security on the Amex. By reason of Section 12(b) of the

[1] 15 U.S.C. 78*l*(d)

[2] 17 CFR 240.12d2–2(d).

Act[3] and the rules and regulations of the Commission thereunder, the Company shall continue to be obligated to file reports with the Commission under Section 13 of the Act.[4]

Any interested person may, on or before March 13, 2000, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 00–4471 Filed 2–24–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24292; 812–11462]

Republic Funds, et al.; Notice of Application

February 16, 2000.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit them to enter into and materially amend subadvisory agreements without obtaining shareholder approval.

APPLICANTS: Republic Funds (the ''Republic Trust'') and Republic Portfolios (the ''Portfolio Trust,'' together with the Republic Trust, the ''Trusts''), and HSBC Bank USA (''Manager'').

FILING DATES: The application was filed on January 11, 1999 and amended on October 27, 1999. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 13, 2000, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW, Washington, DC 20549–0609; Applicants, 452 Fifth Avenue, New York, NY 10018.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel, at (202) 942–0574 or George J. Zornada, Branch Chief, at (202) 942–0564, (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. The Republic Trust is organized as a Massachusetts business trust and the Portfolio Trust is organized as a New York trust. Each Trust is registered under the Act as an open-end management investment company and is composed of separate investment portfolios (each a ''Fund,'' and collectively the ''Funds''), each of which has its own investment objectives, policies, and restrictions. The Republic Trust is composed of eight Funds and the Portfolio Trust consists of three Funds. Five of the eight Republic Trust Funds and each Fund of the Portfolio Trust are managed by the Manager. The remaining three Republic Trust Funds (the ''Feeder Funds'') do not have an investment adviser and each seeks to achieve its investment objectives by investing all its assets in a corresponding Portfolio Trust Fund. The Manager is an indirect wholly-owned subsidiary of HSBC Holdings plc, a registered bank holding company. The Manager is exempt from registration as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act'').[1]

2. The Republic Trust and Portfolio Trust have each entered into an investment advisory agreement with the Manager (''Management Agreement''). The Management Agreement has been approved by each Fund's board of trustees (''Board''), including a majority of the trustees who are not interested persons, as defined in section 2(a)(19) of the Act, of the Manager or the Trust (''Independent Trustees''), and by each Fund's shareholders. Under the Management Agreement, the Manager, subject to the oversight of the Board, supervises the overall investment program of the Funds. The Manager has entered into separate advisory agreements (''Subadvisory Agreements'') with one or more subadvisers (''Subadvisers''). Subject to general supervision by the Manager and Board, the Subadvisers provide the day-to-day management services to the Funds (each Fund with a Subadviser, a ''Subadvised Fund''). Currently there are five Subadvisers, each of which is registered under the Advisers Act. Future Subadvisers will be registered or exempt from registration under the Advisers Act. Each Fund pays the Manager a fee based on the value of the daily average net assets of the Fund.

3. The Management recommends each Subadviser based on, among other things, an evaluation of the Subadviser's level of expertise and performance, and chooses those Subadvisers that have distinguished themselves in the market sectors in which a Fund invests. The Manager reviews the performance of the Subadvisers and will recommend to the Board whether a Subadvisory Agreement should be renewed, modified, or terminated. Fees for each Subadviser are paid directly by the Trust on behalf of the respective Subadvised Fund at rates negotiated with each Subadviser by the Manager.

4. Applicants request an order to permit the Manager to enter into and materially amend Subadvisory Agreements without obtaining shareholder approval. The requested relief will not extend to a Subadviser

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78m.

[5] 17 CFR 200.30–3(a)(1).

[1] Applicants also request that the relief apply to all Funds that may be established in the future and all registered open-end management investment companies or series thereof advised in the future by the Manager, or any entity controlling, controlled by, or under common control (within the meaning of section 2(a)(9) of the Act) with the Manager. All existing registered open-end management investment companies that currently intend to rely on the order have been named as applicants, and any future Fund or existing or future registered open-end management investment companies that rely on the order in the future will comply with the terms and conditions of the order.

that is an affiliated person, as defined in section 2(a)(3) of the Act, of a Trust or the Manager, other than by reason of serving as a Subadviser to one or more of the Funds (an ''Affiliated Subadviser''). None of the current Subadviser is an Affiliated Subadviser.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except under a written contract approved by a majority of the investment company's outstanding voting shares. Rule 18f–2 under the Act provides that each series or class of stock in a series company affected by a matter must approve that matter if the Act requires shareholder approval.

2. Section 6(c) of the Act authorizes the Commission to exempt persons or transactions from the provisions of the Act, or from any rule thereunder, to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. Applicants request an exemption under section 6(c) of the Act to permit them to enter into and materially amend Subadvisory Agreements without shareholder approval.

3. Applicants state that the Funds' shareholders rely on the Manager to select and supervise Subadvisers. Applicants submit that from the perspective of the investor, the role of the Subadviser with respect to each Subadvised Fund is substantially equivalent to the role of individual portfolio managers employed by investment advisory firms. Applicants contend that the requested relief will allow each Subadvised Fund to operate more efficiently by enabling the Subadvised Funds to act quickly and cost effectively to replace Subadvisers when the respective Board and the Manager find that a change would benefit the Subadvised Fund. Applicants state that the Management Agreement will remain fully subject to the requirements of section 15(a) of the Act and rule 18f-2 under the Act, including the requirements for shareholder approval. Applicants also state that, as a condition to the requested order, any changes to a Subadvisory Agreement that would result in an increase in the overall management and advisory fees payable by a Subadvised Fund wll be subject to the shareholder voting requirements of section 15(a) and rule 18f-2.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before a Subadvised Fund may rely on the order requested in the application, the operation of the Subadvised Fund in the manner described in the application will be approved by a majority of the outstanding voting securities of the Subadvised Fund, within the meaning of the Act, or if applicable, pursuant to voting instructions provided by shareholders of those Feeder Funds investing in such Subadvised Fund (or by the unit holders in the case of Feeder Funds that are insurance company separate accounts) that are registered under the Act or other voting arrangements that comply with section 12(d)(1)(E)(iii)(aa) of the Act, if applicable. Before a future Fund may rely on the order requested in the application, the operation of the future Fund in the manner described in the application will be approved by a majority of the outstanding voting securities of the future Fund, within the meaning of the Act, or if applicable, pursuant to voting instructions provided by the shareholders of the future Fund (or by unit holders in the case of a future Fund that is an insurance company separate account registered under the Act), in accordance with section 12(d)(1)(E)(iii)(aa) of the Act, or in the case of a future Fund whose shareholders or unit holders, as the case may be, purchase shares in a public offering on the basis of a prospectus containing the disclosure contemplated by Condition 3 below, by the initial shareholder(s) before the shares of the future Fund are offered to the public.

2. Within 90 days of the hiring of any new Subadviser, the Manager will furnish the shareholders of the applicable Subadvised Fund and Feeder Funds (including in the case of a Feeder Fund that is an insurance company separate account, the unit holders of that separate account) all the information that would have been included in a proxy statement. Such information will include any changes in such information caused by the addition of a new Subadviser. To meet this obligation, the Manager will provide the shareholders of the applicable Subadvised Funds and Feeder Funds (including in the case of a Feeder Fund that is an insurance company separate account, the unit holders of that separate account) with an information statement meeting the requirements of Regulation 14C and Schedule 14C under the Securities Exchange Act of 1934 (''Exchange Act'') as well as the requirements of Item 22 of Schedule 14A under the Exchange Act.

3. The Republic Trust's or a Feeder Fund's prospectus, Portfolio Trust's or future Funds' offering documents and, if applicable, Portfolio Trust's or future Fund's prospectus, will disclose the existence, substance, and effect of any order granted pursuant to this application. In addition, the Feeder Funds, the Subadvised Funds and the future Funds will hold themselves out as employing the Manager/Subadviser approach described in the application. The Republic Trust's or a Feeder Funds' prospectus, Portfolio Trust's or future Fund's offering documents and, if applicable, Portfolio Trust's or future Funds' prospectus, will prominently disclose that the Manager has ultimate responsibility to oversee the Subadvisers and recommend their hiring, termination and replacement.

4. The Manager will provide general management services to each respective Trust and its Subadvised Funds, including overall supervisory responsibility for the general management and investment of each Subadvised Fund's securities portfolio, and, subject to review and approval by the respective Board will: (i) set the Subadvised Fund's overall investment strategies; (ii) evaluate, select and recommend Subadvisers to manage all or a part of a Subadvised Fund's assets; (iii) allocate and reallocate a Subadvised Fund's assets among multiple Subadvisers, if more than one exists; (iv) monitor and evaluate the performance of Subadvisers including their compliance with the investment objectives, policies, and restrictions of Subadvised Funds; and (v) implement procedures to ensure that the Subadvisers comply with the Subadvised Fund's investment objectives, policies, and restrictions.

5. A majority of each respective Board will be Independent Trustees, and the nomination of new or additional Independent Trustees will be at the discretion of the then-existing Independent Trustees.

6. When a Subadviser change is proposed for a Subadvised Fund with an Affiliated Subadviser, the respective Trust's trustees, including a majority of the Independent Trustees, will make a separate finding, reflected in the Trust's Board minutes, that the change is in the best interests of the Subadvised Fund, and the Feeder Fund investing in the Subadvised Fund, and their respective shareholders (including, in the case of a Subadvised Fund offered to insurance company separate accounts, the unit holders of any separate account for

which the Subadvised fund serves as a funding medium) and does not involve a conflict of interest from which the Manager or the Affiliated Subadviser derives an inappropriate advantage.

7. Neither the Manager nor a Subadvised Fund will enter into Subadvisory Agreements with any Subadviser that is an Affiliated Subadviser, other than by reason of serving as Subadviser to one or more Subadvised Funds, without such Subadvisory Agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Subadvised Fund, or if applicable, pursuant to voting instructions provided by shareholders of those Feeder Funds investing in such Subadvised Funds (or by unit holders in the case of Feeder Funds that are insurance company separate accounts) that are registered under the Act or other voting arrangements that comply with section 12(d)(1)(E)(iii)(aa) of the Act, if applicable.

8. No trustee or officer of the Trusts or partner or officer of the Manager will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by that Trustee, partner or officer) any interest in a Subadviser except for: (i) ownership of interests in the Manager or any entity that controls, is controlled by, or is under common control with the Manager, or (ii) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly-traded company that is either a Subadviser or an entity that controls, is controlled by or is under common control with, a Subadviser.

9. Any changes to a Subadvisory Agreement that would result in an increase in the overall management and advisory fees payable by a Subadvised Fund will be required to be approved by the shareholders of the Subadvised Fund, or if applicable, pursuant to voting instructions provided by shareholders of those Feeder Funds investing in the Subadvised Fund (or by unit holders in the case of Feeder Funds that are insurance company separate accounts) that are registered under the Act or other voting arrangements that comply with section 12(d)(1)(E)(iii)(aa) of the Act, if applicable.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–4470 Filed 2–24–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42437; File No. SR–AMEX–99–50]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by The American Stock Exchange LLC Adopting Interpretive Materials Regarding Future Priced Securities

February 17, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on December 30, 1999, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex is proposing to adopt interpretive material relating to certain convertible securities. Below is the text of the proposed rule change. All text is being added.

* * * * *

Section 101
Commentary
.10 Future Priced Securities
Summary

Future Priced Securities are private financing instruments which were created as an alternative means of quickly raising capital for issuers. The security is generally structured in the form of a convertible security and is often issued via a private placement. Issuers will typically receive all capital proceeds at the closing. The conversion price of the Future Priced Security is generally linked to a percentage discount to the market price of the underlying common stock at the time of conversion and accordingly the conversion rate for Future Priced Securities floats with the market price of the common stock. As such, the lower the price of the issuer's common stock at the time of conversion, the more shares into which the Future Priced Security is convertible. The delay in setting the conversion price is appealing to issuers who believe that their stock will achieve greater value after the financing is received. However, the issuance of Future Priced Securities may be followed by a decline in the common stock price, creating additional dilution to the existing holders of the common stock. Such a price decline allows holders to convert the Future Priced Securities into large amounts of the issuer's common stock. As these shares are issued upon conversion of the Future Priced Security, the common stock price may tend to decline further.

For example, an issuer may issue $10 million of convertible preferred stock (the Future Priced Security), which is convertible by the holder or holders into $10 million of common stock based on a conversion price of 80% of the closing price of the common stock on the date of conversion. If the closing price is $5 on the date of conversion, the Future Priced Security would receive 2,500,000 shares of common stock. If, on the other hand, the closing price is $1 on the date of conversion, the Future Priced Security holders would receive 12,500,000 shares of common stock.

Unless the issuer carefully considers the terms of the securities in connection with several Exchange rules, the issuance of Future Priced Securities could result in a failure to comply with the listing standards and concomitant delisting of the issuer's securities from The American Stock Exchange. The Exchange's experience has been that issuers do not always appreciate this potential consequence. Sections of the Exchange's Listing Standards, Policies and Requirements that bear upon the continued listing qualifications of an issuer and that must be considered when issuing Future Priced Securities include:

1. The shareholder approval rules
2. The voting rights rules
3. The rules relating to low priced securities
4. The listing of additional shares rules
5. The rules relating to the acquisition of a listed company by an unlisted company
6. The Exchange's discretionary authority rules

It is important for issuers to clearly understand that failure to comply with any of these rules could result in the delisting of the issuer's securities.

This notice is intended to assist companies considering financings involving Future Priced Securities. By adhering to the above requirements, issuers can avoid unintended listing qualifications problems. Issuers having any questions about this notice or proposed transactions should contact The Nasdaq-Amex Listing Qualifications Department at (301) 978–8026. The Exchange will provide an issuer with written interpretation of the application of Exchange rules to a

[1] 15 U.S.C. 78s(b)(1).

specific transaction, upon request of the issuer.

How the Rules Apply

Shareholder Approval

Section 713 of the Listing Standards, Policies and Requirements provides, in part:

The Exchange will require shareholder approval* * *in connection with a transaction involving* * *the sale or issuance by the company of common stock (or securities convertible into common stock) equal to 20% or more of presently outstanding stock for less than the greater of book or market value of the stock.[2]

When Exchange staff is unable to determine the number of shares to be issued in a transaction, it looks to the maximum potential issuance of shares to determine whether there will be an issuance of 20 percent or more of the common stock outstanding. In the case of Future Priced Securities, the actual conversion price is dependent on the market price at the time of conversion, and so the number of shares that will be issued is uncertain until the conversion occurs. Accordingly, staff will look to the maximum potential issuance of common shares at the time the Future Priced Security is issued. Typically, with a Future Priced Security, the maximum potential issuance will exceed 20 percent of the common stock outstanding because the Future Priced Security could, potentially, be converted into common stock based on a share price of one cent per share, or less. Further, for purposes of this calculation, the lowest possible conversion price is below the book or market value of the stock at the time of issuance of the Future Priced Security. Therefore, shareholder approval must be obtained *prior* to the issuance of the Future Priced Security. Issuers should also be cautioned that obtaining shareholder ratification of the transaction after the issuance of a Future Priced Security does not satisfy the shareholder approval requirements.

Some Future Priced Securities may contain features to obviate the need for shareholder approval by: (1) placing a cap on the number of shares that can be issued upon conversion such that the holders of the Future Priced Security cannot, without prior shareholder approval, convert the security into 20 percent or more of the common stock or voting power outstanding before the issuance of the Future Priced Security; [3] or (2) placing a floor on the conversion price, such that the conversion price will always be at least as high as the greater of book or market value of the common stock prior to the *issuance* of the Future Priced Securities.

Voting Rights

Section 122 provides:

Voting rights of existing shareholders of publicly traded common stock registered under Section 12 of the Exchange Act cannot be disparately reduced or restricted through any corporate action or issuance.

Under the voting rights rules, an issuer cannot create a new class of security that votes at a higher rate than an existing class of securities or take any other action that has the effect of restricting or reducing the voting rights of an existing class of securities. The voting rights rules are typically implicated when the holders of the Future Priced Security are entitled to vote on an as-converted basis or when the holders of the Future Priced Security are entitled to representation on the Board of Directors. Exchange staff will consider whether a voting rights violation exists by comparing the Future Priced Security holders' voting rights to their relative contribution to the company based on the company's overall book or market value at the time of the *issuance* of the Future Priced Security. The percentage of the overall vote attributable to the Future Priced Security holders and the Future Priced Security holders' representation on the board of directors must not exceed their relative contribution to the company based on the company's overall book or market value at the time of the issuance of the Future Priced Security. If the voting power or the board percentage exceeds that percentage interest, a violation exists because a new class of securities has been created that votes at a higher rate than an already existing class. Future Priced Securities that vote on an as-converted basis also raise voting rights concerns because of the possibility that, due to a decline in the price of the underlying common stock, the Future Priced Security holder will have voting rights disproportionate to its investment in the Company.

It is important to note that compliance with the shareholder approval rules prior to the issuance of a Future Priced Security does not affect whether the transaction is in violation of the voting rights rule. Furthermore, shareholders cannot otherwise agree to permit a voting rights violation by the issuer. Because a violation of the voting rights requirement can result in delisting of the issuer's securities from the Exchange, careful attention must be given to this issue to prevent a violation of the rule.

The Low Selling Price Provision

Section 1003(f)(v) provides that the Exchange may delist a security when it sells for a substantial period of time at a low price per share. This provision must be thoroughly considered because the characteristics of Future Priced Securities often exert downward pressure on the price of the issuer's common stock. Specifically, dilution from the discounted conversion of the Future Priced Security may result in a significant decline in the price of the common stock. Furthermore, there appear to be instances where short selling has contributed to a substantial price decline, which, in turn, could lead to a failure to comply with the low selling price provision.[4]

Listing of Additional Securities

Section 301 provides:

A listed company is not permitted to issue, or to authorize its transfer agent or registrar to issue or register, additional securities of a listed class until it has filed an application for the listing of such additional securities and received notification from the Exchange that the securities have been approved for listing.

Issuers should be cognizant that under this rule the application for listing of additional securities is required *prior* to issuing any security (including a Future Priced Security) convertible into shares of a class of securities already listed on the Exchange. Failure to provide such notice can result in an issuer's delisting.

Public Interest Concerns

Section 1003(f)(iii) provides that the Exchange will consider delisting a security if the company or its management engages in operations which, in the opinion of the Exchange, are contrary to the public interest.

[2] The Exchange may make exceptions to this requirement when the delay in securing stockholder approval would seriously jeopardize the financial viability of the enterprise and reliance by the company on this exception is expressly approved by the Audit Committee or a comparable body of the Board of Directors.

[3] In order to obviate the need for shareholder approval through such an arrangement, those shares already issued in connection with the Future Priced Security must not be entitled to vote on the proposal to approve the issuance of additional shares upon conversion of the Future Priced Security.

[4] If used to manipulate the price of the stock, short selling by the holders of the Future Priced Security is prohibited by the antifraud provisions of the securities laws and by Exchange rules and may be prohibited by the terms of the placement.

The returns on Future Priced Securities may become excessive compared with those of public investors in the issuer's common securities. In egregious situations, the use of a Future Priced Security may be contrary to the public interest. In addition to the demonstrable business purpose of he transaction, other factors that Exchange staff will consider in determining whether a transactions raises public interest concerns include: (1) the amount raised in the transaction relative to the issuer's existing capital structure; (2) the dilutive effect of the transaction on the existing holders of common stock; (3) the risk undertaken by the Future Priced Security investor; (4) the relationship between the Future Priced Security investor and the issuer; (5) whether the transaction was preceded by other similar transactions; and (6) whether the transaction is consistent with the just and equitable principles of trade.

Some Future Priced Securities may contain features that address the public interest concerns. These features tend to provide incentives to the investor to hold the security for a longer time period and limit the number of shares into which the Future Priced Security may be converted. Such features may limit the dilutive effect of the transaction and increase the risk undertaken by the Future Priced Security investor in relationship to the reward available.

Acquisition of a Listed Company by an Unlisted Company

Section 341 provides that the Exchange will apply its original listing guidelines to the surviving company following a plan of acquisition, merger or consolidation, which results in a listed company being acquired by an unlisted company even though the listed company is the nominal survivor.[5] In applying this policy, consideration will be given to all relevant factors, including the proportionate amount of the securities of the resulting company to be issued to each of the combining companies, changes in ownership or management of the listed company, whether the unlisted company is larger than the listed company, and the nature of the businesses being combined.

This provision applies regardless of whether the issuer obtains shareholder approval for the transaction. It is important for listed companies to realize that in certain instances, the conversion of a Future Priced Security may implicate this provision. For example, if there is no limit on the number of common shares issuable upon conversion, or if the limit is set high enough, the exercise of conversion rights under a Future Priced Security could result in a change of control in a deemed merger or consolidation with the holders of the Future Priced Securities. In such event, an issuer would be required to reapply for initial listing and satisfy all initial listing requirements.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Amex staff has seen an increase in the use of Future Priced Securities, which are securities that convert into common stock of the issuer based upon a below-market floating conversion rate. In some cases, it appears that there may be some lack of understanding as to how these transactions may implicate the rules of the Exchange. Accordingly, the Exchange has prepared interpretive material, which issuers can use when considering whether to issue these securities.

Future Priced Securities are generally structured in the form of convertible preferred stock and are often issued via a private placement. Issuers will typically receive all capital proceeds at the closing. The conversion price of the Future Priced Security is generally linked to a percentage discount to the future market price of the underlying common stock and accordingly the conversion rate for Future Priced Securities floats with the market price of the common stock. As such, the lower the price of the issuer's common stock at the time of conversion, the more shares into which the Future Priced Security is convertible. The delay in setting the conversion price is appealing to issuers who believe that their stock will achieve greater value after the financing is received. However, the issuance of Future Priced Securities may be followed by a decline in the common stock price, creating addition dilution to the existing holders of the common stock. Such a price decline allows the holders of the Future Priced Security to convert into large amounts of the company's common stock. As the company issues more shares, the common stock price may tend to decline further.

While Future Priced Securities can provide a legitimate mechanism for issuers to raise capital, each issuance may raise concerns under several Exchange rules, including those rules relating to shareholder approval, voting rights, low selling prices, listing of additional securities, and the acquisition of a listed company by an unlisted company. In addition, the use of Future Priced Securities may be inconsistent with the protection of investors and the public interest. An issuer may negotiate features designed to protect the issuer and the existing shareholders. The interpretive material is designed to alert issuers to the potential affect Future Priced Securities may have on the issuer's qualification for continued listing on the Exchange.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5)[6] of the Act, which requires, among other things, the Exchange's rules to be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The interpretive material is designed to educate issuers as to how the Amex applies its various rules to Future Priced Securities in order to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[5] This provision is designed to address situations where a company attempts to obtain a listing on the Exchange by merging with an Exchange-listed company with minimal assets and/or operations.

[6] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange did not solicit or receive written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(i) of the Securities Exchange Act of 1934 and subparagraph (f)(1) of the Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[7]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to the File No. SR–Amex–99–50 and should be submitted by March 17, 2000.

For the Commission by the Division of Market Regulation, pursuant to delegated authority. [8]

[7] In reviewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[8] 17 CFR 200.30–3(a)(12)

Dated:

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–4472 Filed 2–24–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42433; File No. SR–NYSE–00–06]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc., Extending the Pilot Fee Structure Governing the Reimbursement of Member Organizations for Costs Incurred in the Transmission of Proxy and Other Shareholder Communication Materials

February 16, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and rule 19b–4 thereunder,[2] notice is hereby given that on February 14, 2000, the New York Stock Exchange, Inc. (''Exchange'' or ''NYSE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the effectiveness of the pilot fees (''Pilot Fee Structure'') currently set forth in Exchange Rule 451, ''Transmission of Proxy Material,'' and Exchange Rule 465, ''Transmission of Interim Reports and Other Material,'' (collectively the ''Rules''). The Rules provide guidelines for the reimbursement of expenses by NYSE issuers to NYSE member organizations for the processing and delivery of proxy materials and other issuer communications to security holders whose securities are held in street name. The Pilot Fee Structure is presently scheduled to expire on February 15, 2000. The Exchange proposes to extend the Pilot Fee Structure through September 1, 2000.

In addition, the Exchange proposes to define the term ''nominee'' as it relates to calculation of the nominee coordination fee. The proposed definition would limit the universe of nominees in respect of whom the nominee coordination fee is payable.

The text of the proposed rule change is available at the Office of the Secretary, the Exchange, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose.

As first adopted, the Pilot Fee Structure revised the Rules to lower certain reimbursement guidelines, create incentive fees to eliminate duplicative mailings, and establish a supplemental fee for intermediaries that coordinate multiple nominees.[3] The Pilot Fee Structure has been modified and extended several times,[4] most recently by Commission order dated December 30, 1999.[5]

The Exchange believes that an extension of the Pilot Fee Structure through September 1, 2000, will give the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 38406 (Mar. 14, 1997), 62 FR 13922 (Mar. 24, 1997). The Commission initially approved the Pilot Fee Structure as a one-year pilot, and designated May 13, 1998, as the date of expiration.

[4] *See* Securities Exchange Act Release Nos. 39672 (Feb. 17, 1998), 63 FR 9034 (Feb. 23, 1998) (order extending pilot Fee Structure through July 31, 1998, and lowering the rate of reimbursement for mailing each set of initial proxies and annual reports from $.55 to $.50); 40289 (July 31, 1998), 63 FR 42652 (Aug. 10, 1998) (order extending Pilot Fee Structure through October 31, 1998); 40621 (Oct. 30, 1998), 63 FR 60036 (Nov. 6, 1998) (order extending Pilot Fee Structure through February 12, 1999); 41044 (Feb. 11, 1999), 64 FR 8422 (Feb. 19, 1999) (order extending Pilot Fee Structure through March 15, 1999); 41177 (Mar. 16, 1999), 64 FR 14294 (Mar. 24, 1999) (order extending Pilot Fee Structure through August 31, 1999); 41669 (July 29, 1999), 64 FR 43007 (Aug. 6, 1999) (order extending Pilot Fee Structure through November 1, 1999); and 42086 (Nov. 1, 1999), 64 FR 60870 (Nov. 8, 1999) (order extending Pilot Fee Structure through January 3, 2000).

[5] *See* Securities Exchange Act Release No. 42304 (Dec. 30, 1999), 65 FR 1212 (Jan. 7, 2000) (order extending Pilot Fee Structure through February 15, 2000).

Commission additional time to consider the Pilot Fee Structure without a lapse in the current Rules. Absent an extension of the Pilot Fee Structure, the fees in effect prior to the Pilot Fee Structure (*i.e.* the fees in effect prior to March 14, 1997) would return to effectiveness after February 15, 2000. The Exchange believes that such a result could be counterproductive and cause confusion among NYSE member organizations and issuers.

The Exchange also proposes to limit the universe of nominees in respect of whom the nominee coordination fee set forth in the Rules is payable. The proposed limitation would specify that, to receive the nominee coordination fee in respect of a nominee, a distribution intermediary such as Automatic Data Processing (''ADP'') must provide the nominee's name to the issuer and must transmit the proxy or other issuer communication material to the nominee's beneficial owners.

Although the Exchange continues to believe that the nominee coordination fee should be charged only for coordinating mailings to nominees that are known to the issuer, the Exchange seeks to include certain ''secondary'' nominees in the proposed definition of nominee. Under the Exchange's proposal, a distribution intermediary could collect the nominee coordination fee for any nominee that: (1) has the right to vote the shares in respect of which it acts as nominee; and (2) is a record holder,[6] respondent bank,[7] or respondent broker or dealer.[8]

The proposed nominee provisions recognize that, as a practical matter, distribution intermediaries in the past have coordinated mailings and assessed nominee coordination fees for secondary nominees, which fact NYSE issuers have sometimes misunderstood. To date, NYSE issuers have paid $20 for each secondary nominee, without knowing the identity of the secondary nominee or having the ability to verify the distribution intermediary's performance of nominee coordination functions. The Exchange believes that its proposal addresses this lack-of-knowledge issue by requiring notice of the identity of secondary nominees.

The Exchange also believes that the proposed definition of nominee establishes an equitable balance that provides motivation for distribution intermediaries to continue providing coordination services to secondary nominees, yet establishes a reasonable fee for those services. The Exchange believes the proposal serves the purposes of issuers as well as distribution intermediaries because it will make the important services that intermediaries provide to issuers more transparent and readily available.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act[9] in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. The Exchange further believes that the proposed rule change satisfies the requirement under Section 6(b)(5)[10] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices; promote just and equitable principles of trade; foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; remove impediments to and perfect the mechanism of a free and open market and a national market system; and, in general, protect investors and the public interest.[11]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has engaged in ongoing dialogue regarding various aspects of the Pilot Fee Structure, including this proposed rule change, with representatives of the Securities Industry Association (on behalf of NYSE member firms) and the American Society of Corporate Secretaries (on behalf of NYSE issuers). The Exchange believes that these industry representatives support the proposed rule change. The Exchange has not otherwise solicited, and does not intend to solicit, comments on the proposed rule change. Nor has the Exchange received any unsolicited comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

A. Commission Findings

Because the foregoing proposed rule change: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date; the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Exchange Act[12] and Rule 19b–4(f)(6)[13] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate such shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission designate such shorter time period so that the proposed rule change may become operative no later than February 15, 2000. The Exchange believes that immediate effectiveness would allow the current Pilot Fee Structure to continue uninterrupted and would provide the Commission with additional time to consider the Pilot Fee Structure.

The Commission, consistent with the protection of investors and the public interest, has determined to make the proposed rule change operative immediately upon filing for the following reasons. The proposed rule change extends the expiration date of the Pilot Fee Structure from February 15, 2000, to September 1, 2000. The extension of the Pilot Fee Structure will provide the Commission with additional time to review and evaluate the Pilot Fee Structure.

The Commission notes that unless the current expiration date of the Pilot Fee Structure is extended, the reimbursement rates for proxy materials distributed after February 15, 2000, will revert to those in effect prior to March 14, 1997. The Commission believes that such a result could be confusing and counterproductive.

Based on these reasons, the Commission believes it is consistent

[6] The Exchange proposes to use the definition in Rule 14a–1(i) under the Act to define the term ''record holder.''

[7] The Exchange proposes to use the definition in Rule 14a–1(k) under the Act to define the term ''respondent bank.''

[8] The Exchange proposes to define the term ''respondent broker or dealer'' as ''a broker or dealer that holds securities on behalf of beneficial owners and that deposits such securities for safekeeping with another broker or dealer.''

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78f(b)(5).

[11] In reviewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

with the protection of investors and the public interest that the proposed rule change become operative immediately upon the date of filing, February 14, 2000. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

B. Commission Request for Additional Information

As part of the extension of the Pilot Fee Structure through September 1, 2000, the Commission will continue to examine the permissible fees. To perform an effective review, and assess on an ongoing basis the reasonableness of the Pilot Fee Structure, the Commission requires current information on the costs associated with the proxy distribution process. Because ADP controls nearly 100% of the market for delivery of proxy materials to security holders whose securities are held in street name, the Commission believes that ADP is the most appropriate source of comprehensive and timely information. Therefore, as a condition to the extension of the Pilot Fee Structure through September 1, 2000, ADP shall be required to provide to the Commission, as soon as practicable, copies of ADP's audited financial statements for the fiscal years ended June 30, 1999, and June 30, 2000. The Commission notes that ADP most recently provided such information for its fiscal year ended June 30, 1998.

The Commission also seeks to clarify the scope of each fee that is permissible under the Pilot Fee Structure. For example, it appears that some uncertainty currently exists in identifying the specific coordination services that are encompassed within the nominee coordination fee. Because the Exchange administers the Pilot Fee Structure as part of its rules, the Commission requests that the Exchange provide within 45 calendar days a thorough description of each fee that is permissible under the Pilot Fee Structure. The description should clearly identify the circumstances in which a distribution intermediary may assess a particular fee. Specifically, what conditions must be satisfied and what services must be performed before a fee may be assessed? The Commission also requests that ADP provide within 45 calendar days the same type of description and analysis of each fee permissible under the Pilot Fee Structure.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–NYSE–00–06 and should be submitted by March 17, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–4381 Filed 2–24–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42434; File No. SR–NYSE–00–04]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to the Implementation of the Exchange's Audit Committee Rules

February 16, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 4, 2000, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of a clarification of the transition policy for the recently approved rules governing audit committees.[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to clarify that a listed company that does not have an audit committee member with ''accounting or related financial management expertise'' has eighteen months from December 14, 1999, the date of approval of SR–NYSE–99–39, to recruit an individual with such experience. Thus, regardless of the number of members of a company's audit committee, the company need only ensure that by June 14, 2001, the requisite individual is added to its audit committee. The Exchange intends to disseminate this clarification in a letter that will specifically state that, in pertinent part, ''Companies will also have until June 14, 2001 (eighteen months from the date of Commission approval) to appoint an audit committee member who satisfies the requirement for one member with financial management expertise. [303.01 (B)(2)(c)].'' The foregoing clarification has no effect on the implementation of the ''financial literacy'' requirement set forth in Section 303.01(B)(2)(b), as described in SR–NYSE–99–39.

---

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Rel. No. 42233 (Dec. 14, 1999), 64 FR 71529 (Dec. 21, 1999) (approving SR–NYSE—99–39).

Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act [4] in general, and furthers the objectives of Section 6(b)(5) [5] in particular, in that it is designed to promote just and equitable principles of trade, remove impediments to a free and open market and a national market system, and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited or received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule, it has become effective pursuant to Section 19(b)(3)(A)(i) of the Act [6] and subparagraph (f)(1) of rule 19b–4 [7] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[8]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to the File No. SR–NYSE–00–04 and should be submitted by March 17, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–4382 Filed 2–24–00; 8:45 am]

BILLING CODE 8010–01–M

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A)(i).

[7] 17 CFR 240.19b–4(f)(1).

[8] In reviewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Social Security Ruling, SSR 00–2p.—Titles II and XVI: Evaluation of Claims Involving the Issue of ''Similar Fault'' in the Providing of Evidence

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling.

SUMMARY: In accordance with 20 CFR 402.35(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling, SSR 00–2p. This Ruling sets forth the standards that we will apply at all levels of the administrative review process in determining whether there is reason to believe that ''similar fault'' was involved in providing evidence in connection with a claim for benefits. The Ruling sets forth the standards we will apply at all levels of adjudication pursuant to provisions of The Social Security Independence and Program Improvements Act of 1994 (Public Law 103–296), which amended sections 205 and 1631 of the Social Security Act (the Act). This Ruling applies to all claims for benefits under title II and title XVI of the Act; *i.e.,* claims for old-age and survivors benefits and disability benefits under title II of the Act, and claims for Supplemental Security Income benefits for the aged, blind, and disabled under title XVI.

EFFECTIVE DATE: February 25, 2000.

FOR FURTHER INFORMATION CONTACT: Len McMahon, Office of Disability, Division of Disability Process Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–9051.

SUPPLEMENTARY INFORMATION: Although we are not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Ruling in accordance with 20 CFR 402.35(b)(1).

Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings may be based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and policy interpretations of the law and regulations.

Although Social Security Rulings do not have the same force and effect as the statute or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 402.35(b)(1), and are to be relied upon as precedents in adjudicating cases.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the **Federal Register** to that effect.

(Catalog of Federal Domestic Assistance, Programs 96.001 Social Security—Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.003 Social Security—Special Benefits for Persons Aged 72 and Over; 96.004 Social Security—Survivors Insurance; 96.005 Special Benefits for Disabled Coal Miners; 96.006 Supplemental Security Income)

February 2, 2000.

Kenneth S. Apfel,

Commissioner of Social Security.

Policy Interpretation Ruling—Titles II and XVI: Evaluation of Claims Involving the Issue of ''Similar Fault'' in the Providing of Evidence

Purpose: To explain the rules that govern the evaluation and adjudication of claims when there is reason to believe that ''similar fault'' was involved in the providing of evidence in support of the claim.

Citations (authority): Sections 205(u) and 1631(e)(7) of the Social Security Act, as amended; Regulations No. 4, sections 404.704, 404.708, 404.1512, 404.1520, and 404.1527; Regulations No. 16, sections 416.912, 416.920 416.924, and 416.927; and Regulations No. 22, section 422.130(b).

Introduction: The Social Security Independence and Program Improvements Act of 1994, Public Law 103–296, amended the Social Security

Act (the Act) concerning fraud or similar fault. These amendments to sections 205 and 1631 of the Act provide that the Social Security Administration (SSA) shall immediately redetermine an individual's entitlement to monthly insurance benefits under title II or eligibility for benefits under title XVI if there is reason to believe that fraud or similar fault was involved in the individual's application for such benefits. This legislation further provides that, when redetermining entitlement or eligibility, or when making an initial determination of entitlement or eligibility, SSA ''shall disregard any evidence if there is reason to believe that fraud or similar fault was involved in the providing of such evidence.''

This Ruling sets forth the standards we (SSA and State agency adjudicators) will apply at all levels of the administrative review process in determining whether there is reason to believe that ''similar fault'' was involved in providing evidence in connection with a claim for benefits. It also provides guidance for the evaluation of such claims when there is reason to believe that ''similar fault'' was involved. It applies to all claims for benefits under title II and title XVI of the Act; i.e., claims for old-age and survivors benefits and disability benefits under title II of the Act, and claims for Supplemental Security Income benefits for the aged, blind, and disabled under title XVI.

This Ruling does not replace or limit other appropriate standards and criteria for development and evaluation of claims. There may be instances in which evidence will not be disregarded under the statutory provisions discussed in this Ruling, but factors nevertheless may exist that justify giving the evidence in question less credence than other evidence. For example, in disability claims such standards frequently include those set forth in 20 CFR 404.1527 and 416.927 for evaluating medical opinions, and those set forth in Social Security Ruling (SSR) 96–7p, ''Titles II and XVI: Evaluation of Symptoms in Disability Claims: Assessing the Credibility of an Individual's Statements.''

Interpretation

General

1. Sections 205(u) and 1631(e)(7) of the Act provide that evidence shall be disregarded if there is reason to believe that fraud or similar fault was involved in the providing of that evidence. These sections explain that ''similar fault'' is involved if: ''(A) an incorrect or incomplete statement that is material to the determination is knowingly made; or (B) information that is material to the determination is knowingly concealed.''

2. Adjudicators may disregard evidence based on ''similar fault'' of a claimant, a recipient of benefits, or any other person connected with the claim. The other person need not have any direct relationship to the claimant or recipient, or be acting on behalf of the claimant or recipient.

3. A ''similar fault'' finding can be made only if there is reason to believe, based on a preponderance of the evidence, that the person committing the fault knew that the evidence provided was false or incomplete. A ''similar fault'' finding cannot be based on speculation or suspicion.

4. A ''similar fault'' finding is sufficient to take the administrative actions described in this Ruling. Although a finding of ''fraud'' made as part of a criminal prosecution can serve as a basis for the administrative actions described below, such a finding is not required.

5. A ''similar fault'' finding concerning a material fact may constitute evidence to be considered in determining whether there is reason to believe that ''similar fault'' was involved with respect to other evidence provided by the same source, and may justify disregarding other evidence from that source. Also, the evidence relied on to make a ''similar fault'' finding in one claim may be considered in deciding whether there is ''similar fault'' in another claim or in deciding whether to give less weight to evidence in another claim.

6. A ''similar fault'' finding does not constitute complete adjudicative action in any claim. A person may still be found entitled to, or eligible for, monthly benefits despite the fact that some evidence in the case record has been disregarded based on ''similar fault.''

Definitions

1. *Similar Fault.* As defined in section 205(u) and 1631(e)(7) of the Act, ''similar fault'' is involved if: ''(A) an incorrect or incomplete statement that is material to the determination is knowingly made; or (B) information that is material to the determination is knowingly concealed.'' ''Similar fault'' differs from ''fraud'' in that fraud (but not similar fault) includes an element of intent to defraud.

2. *Material.* Used to describe a statement or information, or an omission from a statement or information, that could influence SSA in determining entitlement to monthly benefits under title II or eligibility for monthly benefits under title XVI of the Act.

3. *Knowingly.* Used to describe how a person acts in furnishing information that he or she knows is false or incomplete.

4. *Preponderance of evidence.* A standard for deciding questions of fact and other issues. To apply this standard, the adjudicator weighs the evidence to decide which side of an issue is supported by the evidence with the greater weight. Preponderance is established by that piece or body of evidence that, when fairly considered, produces the stronger impression and is more convincing as to its truth when weighed against the evidence in opposition. Thus, ''preponderance'' does not require that a certain number of pieces of evidence (e.g., five or six) must be present. It is possible that just one piece of evidence may be so convincing that it outweighs more than one piece of evidence in opposition.

Development and Evaluation

Adjudicators at all levels of the administrative review process are responsible for taking all appropriate steps to resolve ''similar fault'' issues in accordance with the standards in this Ruling. Adjudicators must adhere to existing due process and confidentiality requirements during the process of resolving ''similar fault'' issues.

In making determinations whether there is ''similar fault,'' all adjudicators must:

1. Consider all evidence in the case record before determining whether specific evidence may be disregarded.

2. Apply the preponderance of evidence standard, as defined in this Ruling.

3. Fully document the record with the evidence that was the basis for the finding that, based on a preponderance of the evidence, there is reason to believe that ''similar fault'' was involved in providing the evidence that is being disregarded.

Notice of Determination or Decision

In determinations or decisions in which a ''similar fault'' finding is being made and evidence is being disregarded, the notice of determination or decision must:

1. Explain the applicable provision of the Act that allows the adjudicator to disregard particular evidence due to a ''similar fault'' finding.

2. Identify the documents or other evidence that is being disregarded.

3. Provide a discussion of the evidence that supports a finding to disregard evidence. The discussion

must explain that, in accordance with the law, the evidence identified cannot be used as evidence in the claim because, after considering all the information in the case record, the adjudicator has reason to believe that ''similar fault'' was involved in providing the evidence and it must be disregarded. Again, a ''similar fault'' finding can be made only if there is reason to believe, based on a preponderance of the evidence, that the person knew that the evidence provided was false or incomplete. A ''similar fault'' finding cannot be based on speculation or suspicion.

4. Provide a determination or decision based on an evaluation of the remaining evidence in accordance with other rules and procedures. A ''similar fault'' finding does not constitute complete adjudicative action in any claim. A person may still be found entitled to, or eligible for, monthly benefits despite the fact that some evidence in the case record has been disregarded based on ''similar fault.'' For example, a person may be found to be under a ''disability'' based on impairments that are established by evidence that is not disregarded because of ''similar fault.''

5. Include standard appeal language.

EFFECTIVE DATE:

This Ruling is effective February 25, 2000.

CROSS-REFERENCES:

SSR 96–7p, ''Titles II and XVI: Evaluation of Symptoms in Disability Claims: Assessing the Credibility of an Individual's Statements,'' SSR 85–23, ''Title XVI: Reopening Supplemental Security Income Determinations at Any Time for ''Similar Fault.'' Program Operations Manual System, DI 23025.001–DI 23025.095.

[FR Doc. 00–4417 Filed 2–24–00; 8:45 am]

BILLING CODE 4191–02–U

DEPARTMENT OF STATE

[Public Notice No. 3223]

Advisory Committee on Historical Diplomatic Documentation Notice of Charter Renewal

The Advisory Committee on Historical Diplomatic Documentation is renewing its charter for a period of two years. This Advisory Committee will continue to make recommendations to the Historian and the Department of State on all aspects of the Department's program to publish the Foreign Relations of the United States series as well as on the Department's responsibility under statute (22 USC 4351, *et seq.*) to open its 30-year-old and older records for public review at the National Archives and Records Administration. The Committee consists of nine members drawn from among historians, political scientists, archivists, international lawyers, and other social scientists who are distinguished in the field of U.S. foreign relations.

Questions concerning the Committee and the renewal of its Charter should be directed to William Slany, Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State, Office of the Historian, Washington, DC, 20520, telephone (202) 663–1123 (e-mail *pahistoff@panet.us-state.gov*).

Dated: February 16, 2000.

William Slany,

Executive Secretary, Office of the Historian, U.S. Department of State.

[FR Doc. 00–4498 Filed 2–24–00; 8:45 am]

BILLING CODE 4710–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Availability of the Federal Radionavigation Plan

AGENCY: Office of the Assistant Secretary for Transportation Policy, DOT.

ACTION: Availability of the Federal Radionavigation Plan.

SUMMARY: The 1999 edition of the Federal Radionavigation Plan (FRP) has been published and is available for comment. All comments, concerns, and suggestions regarding the current policies and plans in the 1999 FRP will be considered in formulation of the 2001 FRP. The policies in the 1999 FRP include provisions for two additional Global Positioning System (GPS) signals for civil use and focus on transition to GPS based services with recognition of the need to maintain some existing navigation aids. The schedule in the 1999 FRP includes an initial operating capability for the FAA Wide Area Augmentation System at the end of 2001. The FAA's Local Area Augmentation System is planned to begin service at selected airports in 2003. The 1999 FRP also includes a revised schedule for phasing down land-based navigation aids. The phase down of VOR/DMEs, ILSs and MLSs for Category I approaches, and TACAN will begin in 2008. The phase down of ILSs for Category II and III approaches will not begin before 2015. The U.S. will continue operating Loran-C in the short term while the Administration continues to evaluate the long-term need for the system. Maritime radiobeacons not used for differential GPS are expected to be phased out by 2000. Stand-alone aeronautical NDBs will be phased out after 2008. NDBs used as compass locators for ILSs will be phased out when the underlying ILSs are withdrawn.

DATES: Comments must be received by July 31, 2000 for consideration in development of the 2001 FRP.

ADDRESSES: Comments should be forwarded to Chairman, DOT POS/NAV Working Group, Department of Transportation (P–7), Room 10315, 400 Seventh Street, SW., Washington, DC 20590. Email: *michael.shaw@ost.dot.gov*. In addition to written input, two public meetings will be held to solicit verbal input. Comments received at the public meetings on the policies and plans contained in the 1999 FRP will be considered in formulation of the 2001 FRP. The first meeting is scheduled for March 28 through March 30, 2000, at the Fair Oaks Holiday Inn in Fairfax, VA. See notice of meeting under Transportation Department in **Federal Register**, 65 FR (6437) 2/9/2000. The second meeting will be held at the end of June, 2000, in San Diego. A **Federal Register** notice will be issued in advance of the meeting.

FOR FURTHER INFORMATION CONTACT: Michael Shaw, Department of Transportation (P–7), 400 7th Street, SW., Washington, DC, 20590, (202) 366–0353.

SUPPLEMENTARY INFORMATION: Free copies of the 1999 FRP are available from the Volpe National Transportation System Center, Kendall Square, Cambridge, MA 02142. The telephone number there is (617) 494–2908. The 1999 FRP is also on the Internet World Wide Web at *http://www.navcen.uscg.mil/frp*.

Issued in Washington, DC on February 18, 2000.

Joseph F. Canny,

Deputy Assistant Secretary For Navigation Systems Policy.

[FR Doc. 00–4483 Filed 2–24–00; 8:45 am]

BILLING CODE 4910–62–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2000–6950]

Collection of Information under Review by Office of Management and Budget (OMB): 2115–0614 and 2115–0545

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Coast Guard intends to request the approval of OMB for the renewal of two Information Collection Requests (ICRs). These ICRs comprise: (1) Alteration of Obstructive Bridges; and (2) Financial Responsibility for Water Pollution (Vessels). Before submitting the ICRs to OMB, the Coast Guard is asking for comments on the collections described below.

DATES: Comments must reach the Coast Guard on or before April 25, 2000.

ADDRESSES: You may mail comments to the Docket Management System (DMS) [USCG–2000–6950], U.S. Department of Transportation (DOT), room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001, or deliver them to room PL–401, located on the Plaza Level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

The Docket Management Facility maintains the public docket for this Request. Comments will become part of this docket and will be available for inspection or copying at room PL–401, located on the Plaza Level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also access this docket on the Internet at http://dms.dot.gov.

Copies of the complete ICRs are available through this docket on the Internet at http://dms.dot.gov and also from Commandant (G–SII–2), U.S. Coast Guard Headquarters, room 6106 (Attn: Barbara Davis), 2100 Second Street SW., Washington, DC 20593–0001. The telephone number is 202–267–2326.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, Office of Information Management, 202–267–2326, for questions on this document; Dorothy Walker, Chief, Documentary Services Division, U.S. Department of Transportation, 202–366–9330, for questions in the docket.

Request for Comments

The Coast Guard encourages interested persons to submit written comments. Persons submitting comments should include their names and addresses, identify this document [USCG–2000–6950] and the specific ICR to which each comment applies, and give the reason(s) for each comment. Please submit all comments and attachments in an unbound format no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

Information Collection Requests

1. *Title:* Alteration of Obstructive Bridges.

OMB Control Number: 2115–0614.

Summary: The collection of information requires the owner of a bridge whose bridge the Coast Guard has found to be an unreasonable obstruction to navigation to prepare, and submit to the Coast Guard, general plans and specifications of that bridge.

Need: Under 33 U.S.C. 494, 502, 511, and 513, the Coast Guard may determine whether a bridge is an unreasonable obstruction to navigation and can require the owner of the bridge to submit information to determine the apportionment of cost between the U.S. and the owner for alteration of that bridge.

Respondents: Owners of bridges.

Frequency: On occasion.

Burden: The estimated burden is 120 hours annually.

2. *Title:* Financial Responsibility for Water Pollution (Vessels).

OMB Control Number: 2115–0545.

Summary: The collection of information requires operators of vessels over 300 gross tons to submit to the Coast Guard evidence of their financial responsibility to meet the maximum amount of liability in case of an oil spill or hazardous substances.

Need: Under 22 U.S.C. 2716 and 42 U.S.C. 9608, the Coast Guard has the authority to ensure that those persons directly subject to these rules are in compliance with the provisions.

Respondents: Vessels operators or owners of vessels over 300 gross tons.

Frequency: On occasion.

Burden: The estimated burden is 2,162 hours annually.

Dated: February 17, 2000.

Daniel F. Sheehan,

Director of Information and Technology.

[FR Doc. 00–4494 Filed 2–24–00; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–1999–6581]

Information Collection Under Review by the Office of Management and Budget (OMB): 2115–0042 and 2115–0010

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this request for comments announces that the Coast Guard has forwarded the two Information Collection Reports (ICRs) abstracted below to OMB for review and comment. Our ICRs describe the information that we seek to collect from the public. Review and comment by OMB ensure that we impose only paperwork burdens commensurate with our performance of duties.

DATES: Please submit comments on or before March 27, 2000.

ADDRESSES: Please send comments to both (1) the Docket Management System (DMS), U.S. Department of Transportation (DOT), room PL–401, 400 Seventh Street S.W., Washington, DC 20590–0001, and (2) the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB), 725 17th Street N.W., Washington, DC 20503, to the attention of the Desk Officer for the USCG.

Copies of the complete ICRs are available for inspection and copying in public docket USCG–1999–6581 of the Docket Management Facility between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays; for inspection and printing on the internet at http://dms.dot.gov; and for inspection from the Commandant (G–SII–2), U.S. Coast Guard, room 6106, 2100 Second Street S.W., Washington, DC, between 10 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, Office of Information Management, 202–267–2326, for questions on this document; Dorothy Walker, Chief, Documentary Services Division, U.S. Department of Transportation, 202–366–9330, for questions on the docket.

SUPPLEMENTARY INFORMATION

Regulatory History

This request constitutes the 30-day notice required by OMB. The Coast Guard has already published [64 FR 68408 (December 7, 1999)] the 60-day notice required by OMB. That request elicited no comments.

Request for Comments

The Coast Guard invites comments on the proposed collections of information to determine whether the collections are necessary for the proper performance of the functions of the Department. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the collections; (2) the accuracy of the Department's estimated burden of the collections; (3) ways to enhance the quality, utility, and

clarity of the information that is the subject of the collections; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology.

Comments, to DMS or OIRA, must contain the OMB Control Numbers of all ICRs addressed. Comments to DMS must contain the docket number of this request, USCG 1999–6581. Comments to OIRA are best assured of having their full effect if OIRA receives them 30 or fewer days after the publication of this request.

Information Collection Requests

1. *Title:* Certificate of Discharge to Merchant Mariners.

OMB Control Number: 2115–0042.

Type of Request: Extension of currently approved collection.

Affected Public: Masters or mates of shipping companies and merchant mariners.

Form(s): N/A.

Abstract: The collection of information requires a master or mate of a shipping company to submit information on merchant mariners to the U.S. Coast Guard that: (1) establishes their sea service time; (2) sets forth their qualifications for original credentials, or for upgrading existing credentials; and (3) sets forth their qualifications for retirement or insurance benefits.

Annual Estimated Burden Hours: The estimated burden is 4,500 hours annually.

2. *Title:* Recreational Boating Accident Report.

OMB *Control Number:* 2115–0010.

Type of Request: Extension of a currently approved collection.

Affected Public: Operators of recreational boats.

Forms: N/A.

Abstract: The information collected identifies possible manufacturers' defects in boats or equipment, helps develop boat manufacturing standards and safe-boating-education programs, and furnishes accident statistics.

Annual Estimated Burden Hours: The estimated burden is 4,232 hours annually.

Dated: February 17, 2000.

Daniel F. Sheehan,

Director of Information and Technology.

[FR Doc. 00–4492 Filed 2–24–00; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2000–6942]

Commercial Fishing Vessel Safety Listening Sessions

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: The Coast Guard will hold several regional listening sessions to present, and receive feedback on, the Coast Guard's Commercial Fishing Vessel Safety Action Plan (CFVSAP). The Coast Guard created the CFVSAP to help fishermen improve the level of safety in the fishing industry. The information gathered during these listening sessions will be presented to the Commercial Fishing Industry Vessel Advisory Committee and used to further refine the CFVSAP. The first two listening sessions are scheduled for Rockport, ME and Kodiak, AK.

DATES: The listening session in Rockport, ME will be on March 3, 2000, from 9:00 a.m. to 10:15 a.m. The listening session in Kodiak, AK will be on March 23, 2000, from 7:00 p.m. to 9:00 p.m. The comment period will close on July 30, 2000.

ADDRESSES: The Samoset Resort, 220 Warrenton Street, Rockport, ME 04856–9974, (207) 442–7700; Fisherman's Hall, 403 Maine Way, Kodiak, AK, (907) 486–8080.

To make sure your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, (USCG–2000–6942), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By hand delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at http://dms.dot.gov.

The Docket Management Facility maintains the public docket for this notice. Comments will become part of this docket and will be available for inspection on the Plaza Level of the Nassif Building at the above address between 10 a.m. and 5 p.m., Monday through Friday, except federal holidays. You may also electronically access the public docket for this notice on the internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For information on the public docket, contact Dorothy Walker, Chief, Dockets, U.S. Department of Transportation, telephone 202–366–9329; for information concerning the notice of meeting contact Lieutenant Joe Paitl or Ensign Chris O'Neal, (G-MOC–3), 2100 Second St., SW, Washington, DC 20593–0001, telephone 202–267–0507 or 202–267–2008, or electronic mail Gpaitl@comdt.uscg.mil or Co'neal@comdt.uscg.mil.

SUPPLEMENTARY INFORMATION:

Other Regional Listening Sessions

This notice announces the first two, of seven, regional listening sessions. Other sessions are being planned for Norfolk, VA; Galveston, TX; Mobile, AL; Los Angeles, CA; and Seattle, WA. These sessions are subject to change. The final dates and locations of the sessions will be published in a separate **Federal Register** notice once they are confirmed.

Request for Comments

We encourage interested persons to participate in this information-gathering initiative by submitting written data, views, or other relevant documents. Persons submitting comments should include their names and addresses, identify this notice (USCG–2000–6942), and the reasons for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under ADDRESSES; but please submit your comments and material by only one means. Please submit all comments and attachments in an unbound format, no larger than 8 1/2 x 11 inches, suitable for copying and electronic filing to the DOT Docket Management Facility at the address under **ADDRESSES**. If you want acknowledgement of receipt of your comments, please enclose a stamped, self-addressed post card or envelope. Comments received, whether submitted in writing to the docket or presented during the regional listening sessions, will be considered in refining the CFVSAP.

Background

In response to the alarming number of deaths in the fishing industry, the Coast Guard chartered a Task Force to identify ways to improve safety. The Task Force examined fishing vessel casualties in the context of historical data, reviewed the Coast Guard's existing Commercial Fishing Vessel Safety Program, reviewed

past safety recommendations, and provided quick feedback to the fishing industry by recommending measures believed to have the greatest potential for reducing loss of life and property. The Task Force completed a report containing safety recommendations in March 1999 and presented the report to the Commercial Fishing Industry Vessel Advisory Committee (CFIVAC) and Coast Guard District Fishing Vessel Safety Coordinators. The Task Force report is available at http://www.get.to/thefishingreport or at Commandant (G–MOA), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, 202–267–1430. The Coast Guard consolidated the Task Force recommendations commonly supported by both the CFIVAC and the District Fishing Vessel Safety Coordinators and subsequently developed the CFVSAP. The CFVSAP was presented at the October 4–5, 1999 meeting of the CFIVAC. The CFIVAC agreed with the concepts presented in the CFVSAP. Also, the CFIVAC agreed with the Coast Guard that holding regional listening sessions would result in valuable input from a larger segment of the fishing industry. By publication of this notice, the Coast Guard is seeking further feedback from fisherman on the CFVSAP. The CFVSAP is available at http://www.uscg.mil/hq/g-m/advisory/cfivac/fishexpo99.pdf or at Commandant (G-MOC), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, 202–267–2008.

Objective and Issues

The objective of the regional listening sessions and the request for comments is to receive information from the general public and the fishing industry pertaining to the CFVSAP and other possible safety issues affecting the fishing industry. The Coast Guard wishes to identify ways to improve safety in the fishing industry.

The Coast Guard is specifically interested in information pertaining to the following:

- The most critical safety issues in your region.
- Ways the Coast Guard might better communicate with the fishing industry.
- Ways the Coast Guard might assist in improving safety in the fishing industry.
- Ways the fishing industry might improve its safety record without Coast Guard or other government involvement.
- The minimum level of training that should be considered in a training based certificate program.
- The most safety beneficial composition of a vessel examination program.
- Whether the Territorial Sea Baseline is the best reference parameter for setting certain safety equipment carriage requirements.

Format of Regional Listening Sessions

Each listening session will be preceded with a presentation by the Coast Guard on the CFVSAP. After the presentation the audience will have an opportunity to comment on the specifics of the CFVSAP. The Coast Guard will then present a list of standardized issues similar to those contained in Objectives and Issues and then open the listening session to general comments from the audience.

Information on Services for Individuals with Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact the person noted in **FOR FURTHER INFORMATION CONTACT** as soon as possible.

Dated: February 16, 2000.

Joseph J. Angelo,

Acting Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 00–4493 Filed 2–24–00; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of currently approved collections. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** with a 60-day comment period soliciting comments on the following collection of information was published on October 7, 1999, [FR 64, pages 54720–54721].

DATES: Comments must be submitted on or before March 27, 2000. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Judy Street on (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Domestic and International Flight Plan Forms.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0026.

Forms(s) FAA Forms 7233–1 and 7233–4.

Affected Public: Anyone flying an airplane.

Abstract: Title 49 USC paragraph 40103(b) authorized regulations governing the flight of aircraft. 14 CFR 91 prescribes requirements for filing domestic and international flight plans. Information is collected to provide services to aircraft inflight and protection of persons/property on the ground.

Estimated Annual Burden Hours: 293,072 burden hours annually.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725—17th Street, NW., Washington, DC 20503, Attention: FAA Desk Officer.

Comments Are Invited On: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on February 17, 2000.

Steve Hopkins,

Manager, Standards and Information Division, APF–100.

[FR Doc. 00–4491 Filed 2–24–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Columbus Metropolitan Airport, Columbus, Georgia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Columbus Metropolitan Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before March 27, 2000.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, 1701 Columbia Avenue, Campus Building, Suite 2–260, College Park, Georgia 30337–2747.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Mark Oropeza, Airport Director, of the Columbus Metropolitan Airport at the following address: Mr. Mark Oropeza, Airport Director, Columbus Metropolitan Airport, 3250 West Britt David Road, Columbus, GA 31909–5399.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Columbus Airport Commission under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Daniel Gaetan, Program Manager, Atlanta Airports District Office, 1701 Columbia Avenue, Campus Building, Suite 2–260, College Park, Georgia 30337–2747; telephone number (404) 305–7146. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Columbus Metropolitan Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On January 24, 2000, the FAA determined that the application to impose and use the revenue from a PFC submitted by Columbus Airport Commission was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 12, 2000.

The following is a brief overview of the application.

PFC Application No.: 99–03–C–00–CSG.

Level of the proposed PFC: $3.00.

Proposed charge effective date: August 1, 2000.

Proposed charge expiration date: November 1, 2000.

Total estimated PFC revenue: $1,223,986.

Brief description of proposed project(s):

(1) North Terminal Access Road Rehabilitation;

(2) Obstruction approach clearing for Runway Ends 5, 23, 12, and 30;

(3) Passenger lift device;

(4) Taxiway ''D'' Rehabilitation;

(5) Runway 5/23 Rehabilitation;

(6) Runways 12/30 & 5/23 renumbering and signage;

(7) Aircraft Rescue & Fire Fighting Vehicle;

(8) Update Airport Master Plan; Taxiway ''C'' Relocation.

Class or classes of air carriers, which the public agency has requested not be required to collect PFCs: All classes of carriers that enplaned less that 1% of the total number of passengers enplaned annually at the airport.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Columbus Metropolitan Airport.

Issued in Atlanta, Georgia on January 24, 2000.

Scott L. Seritt,

Manager, Atlanta Airports District Office, Southern Region.

[FR Doc. 00–4490 Filed 2–24–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Waukesha and Washington Counties, Wisconsin

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway improvement of State Trunk Highway 164 (STH 164) corridor between Interstate Highway 94 (IH–94) in Waukesha County and the vicinity of State Trunk Highway 175 (STH 175) in Washington County, Wisconsin.

FOR FURTHER INFORMATION CONTACT: Mr. Richard C. Madrzak, Field Operations Engineer, Federal Highway Administration, 567 D'Onofrio Drive, Madison, Wisconsin, 53719–2814; (608) 829–7510. You may also contact Ms. Carol Cutshall, Director, Bureau of Environment, Wisconsin Department of Transportation, P.O. Box 7965, Madison, Wisconsin, 53707–7965; (608) 266–9626.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded by using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara.*

Background

The FHWA, in cooperation with the Wisconsin Department of Transportation, will prepare a Draft Environmental Impact Statement (EIS) on a proposal to improve STH 164 as an ultimate four lane roadway between IH 94 in Waukesha County and the vicinity of STH 175 in Washington County, a distance of about 32 kilometers (20 miles).

The proposal is being considered to address existing and future transportation demand on STH 164, and to preserve land for future transportation improvements. Planning, environmental and engineering studies are underway to develop transportation alternatives. The EIS will assess the environmental impacts of alternatives including: (1) No build, (2) reconstructing the existing 2-land highway to a 4-land facility, and (3) possible alignment deviation from the present alignment at some locations to minimize environmental impacts.

Information describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies and to private organizations and citizens who have previously expressed, or are known to have interest in this proposal. A project advisory committee comprised of Federal and State agencies, local officials, environmental, and other community interests is being established to provide input during development and refinement of alternatives and corridor preservation activities. A series of public meetings will be held to solicit comments from

citizens and interest groups. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing. Agencies having an interest in or jurisdiction regarding the proposed action will be contacted through interagency coordination meetings and mailings.

To ensure that the full range of issues related to this proposed action are addressed, and all substantive issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to FHWA or the Wisconsin Department of Transportation at the addresses provided in the caption **FOR FURTHER INFORMATION CONTACT**.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Issued on: February 14, 2000.

Richard C. Madrzak,

Field Operations Engineer, Federal Highway Administration, Madison, Wisconsin.

[FR Doc. 00–4510 Filed 2–24–00; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA–2000–6887]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections. This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before April 25, 2000.

ADDRESSES: Comments must refer to the docket notice numbers cited at the beginning of this notice and be submitted to Docket Management, Room PL–401, 400 Seventh Street, S.W., Washington, DC 20590. Please identify the proposed collection of information for which a comment is provided, by referencing its OMB clearance Number. It is requested, but not required, that 2 copies of the comment be provided. The Docket Section is open on weekdays from 10 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: For further information, contact Mr. Joseph Scott, Office of Crash Avoidance Standards, 400 Seventh Street, S.W., D.C. 20590. Mr. Scott's telephone number is (202) 366–8525. His FAX number is (202) 493–2739. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected;

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collections of information:

Title: Tires and Rim Labeling

OMB Control Number: 2127–0503

Affected Public: Tire and Rim Manufacturers

Form Number: The tires and rims are labeled in accordance with the agency's Federal Motor Vehicle Safety Standards (FMVSSs) and regulations.

Abstract: Each tire manufacturer and rim manufacturer must label their tire or rim with the applicable safety information. These labeling requirements ensure that tires are mounted on the appropriate rims; and that the rims and tires are mounted on the vehicles for which they are intended.

Estimated Annual Burden: 5,679,585

Estimated Number of Respondents: 6,673

Issued on: February 22, 2000.

Stephen R. Kratzke,

Acting Associate Administrator for Safety Performance Standards.

[FR Doc. 00–4481 Filed 2–24–00; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA–2000–6886]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections. This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before April 25, 2000.

ADDRESSES: Comments must refer to the docket notice numbers cited at the beginning of this notice and be submitted to Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Please identify the proposed collection of information for which a comment is provided, by referencing its OMB clearance Number. It is requested, but not required, that 2

copies of the comment be provided. The Docket Section is open on weekdays from 10 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: For further information, contact Mr. Joseph Scott, Office of Crash Avoidance Standards, 400 Seventh Street, SW., DC 20590. Mr. Scott's telephone number is (202) 366–8525. His FAX number is (202) 493–2739. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) how to enhance the quality, utility, and clarity of the information to be collected;

(iv) how to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collections of information:

Title: Tire Identification and Recordkeeping

OMB Control Number: 2127–0050.

Affected Public: Tire Manufacturers, Dealers, and Distributors.

Form Number: The forms on which the information is to be recorded are provided by the tire manufacturers to both independent and non-independent dealers. In the case of independent dealers, the law specifies that they must record the tire identification number(s) of the tire(s) sold on a registration form, and hand that form to the tire purchaser. The purchaser is then free to complete the remaining information, place a stamp on the registration form, and return it to the tire manufacturer.

Abstract: Each tire manufacturer must collect and maintain records of the names and addresses of the first purchasers of new tires. All tire dealers and distributors must record the names and addresses of retail purchasers of new tires and the identification number(s) of the tires sold. A specific form is provided to tire dealers and distributors by tire manufacturers for recording this information. The completed forms are returned to the tire manufacturers where they are to remain for three years after the date received by the manufacturer. Additionally, motor vehicle manufacturers are required to record the names and addresses of the first purchasers of new motor vehicles, together with the identification numbers of the tires on the new vehicles.

Estimated Annual Burden: 747,500.

Estimated Number of Respondents: 37,400,000.

Issued on: February 22, 2000.

Stephen R. Kratzke,

Acting Associate Administrator for Safety Performance Standards.

[FR Doc. 00–4482 Filed 2–24–00; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33819]

Chicago SouthShore & South Bend Railroad—Operation Exemption—Illinois Indiana Development Company, LLC

Chicago SouthShore & South Bend Railroad (CSS), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to operate approximately 25.888 miles of rail line to be owned by Illinois Indiana Development Company, LLC (IIDC) as follows: (1) a portion of the Michigan City Branch line from milepost 136.0 in Dillon, IN, to the end of the line, at milepost 158.518 in Michigan City, IN; and (2) approximately 3.37 miles of the South Bend Branch line from milepost 200.369 in Dillon, IN, to the end of the track in Kingsbury, IN. CSS states that it is a substitute operator for Norfolk Southern Railway Company (NS), the previous operator of the line, and that it will operate the line pursuant to an operating agreement entered into with IIDC on or about January 24, 2000.

The transaction was scheduled to be consummated on or after February 3, 2000.

This transaction is related to a concurrently filed verified notice of exemption in STB Finance Docket No. 33845, *Illinois Indiana Development Company, LLC—Acquisition and Operation Exemption—Norfolk Southern Railway Company*, wherein IIDC seeks to acquire through a purchase and sale agreement, NS's interest in certain rail property including the above noted 25.888 mile line of railroad, and a concurrently filed petition for exemption in STB Finance Docket No. 33846, *Peter A. Gilbertson, et al., and SouthShore Corporation—Control Exemption—Illinois Indiana Development Company, LLC*, wherein Peter A. Gilbertson, et al., and SouthShore Corporation seek an exemption to continue in control of IIDC once it becomes a Class III rail carrier. The petition is currently pending.

Pursuant to 49 CFR 1150.42(e), and, as stated in STB Finance Docket No. 33846, CSS certified to the Board on November 22, 1999, that its projected revenues will exceed $5 million, and that it served a copy of the notice on the national offices of the labor unions with a copy of its notice of intent to undertake the transaction and posted such notice at the workplace of the employees on the affected lines. CSS further indicated in its certification that IIDC will grant trackage rights over a small portion of the above-described rail line to NS, to enable it to connect with NS's retained portion of the South Bend Branch running east of the rail line. IIDC should seek the Board's approval for the trackage rights in a separate filing.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33819, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Rose-Michele Weinryb, Esq., Weiner, Brodsky, Sidman & Kider, P.C., 1350 New York Avenue, NW, Suite 800, Washington, DC 20005–4797.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: February 17, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 00–4367 Filed 2–24–00; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33845]

Illinois Indiana Development Company, LLC—Acquisition and Operation Exemption—Norfolk Southern Railway Company

Illinois Indiana Development Company, LLC (IIDC), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire (by purchase agreement) and operate [1] approximately 25.888 miles of rail line owned by Norfolk Southern Railway Company as follows: (1) A portion of the Michigan City Branch line from milepost 136.0 in Dillon, IN, to the end of the line, at milepost 158.518 in Michigan City, IN; and (2) approximately 3.37 miles of the South Bend Branch line from milepost 200.369 in Dillon, IN, to the end of the track in Kingsbury, IN.[2]

The transaction was scheduled to be consummated on or after February 3, 2000.

This transaction is related to a concurrently filed verified notice of exemption in STB Finance Docket No. 33819, *Chicago SouthShore & South Bend Railroad—Operation Exemption—Illinois Indiana Development Company, LLC*, wherein CSS will conduct freight operations over the lines being acquired by IIDC, and a concurrently filed petition for exemption in STB Finance Docket No. 33846, *Peter A. Gilbertson, et al.,* and SouthShore Corporation—Control Exemption—Illinois Indiana Development Company, LLC, wherein Peter A. Gilbertson, et al., and SouthShore Corporation seek an exemption to continue in control of IIDC once it becomes a Class III rail carrier. The petition is currently pending.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33845, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Rose-Michele Weinryb, Esq., Weiner, Brodsky, Sidman & Kider, P.C., 1350 New York Avenue, NW, Suite 800, Washington, DC 20005–4797.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: February 17, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 00–4366 Filed 2–24–00; 8:45 am]

BILLING CODE 4915–00–P

[1] IIDC states that it intends to enter into an operating agreement with Chicago SouthShore & South Bend Railroad (CSS), a Class III rail carrier, whereby CSS will conduct freight operations over the above-described rail line. IIDC further states that it will retain a residual common carrier obligation.

[2] IIDC certifies that its projected revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier.

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

February 17, 2000.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before March 27, 2000 to be assured of consideration.

Financial Management Service (FMS)

OMB Number: 1510–0037.

Form Number: TFS 5135.

Type of Review: Extension.

Title: Voucher for Payment of Awards.

Description: Awards certified to Treasury are paid annually as funds are received from foreign Governments. Vouchers are mailed to awardholders showing payments due. Awardholders signs vouchers certifying that he/she is entitled to payment. Executed vouchers are used as basis for payment.

Respondents: Individuals or households.

Estimated Number of Respondents: 1,400.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: Other (as needed).

Estimated Total Reporting Burden: 700 hours.

OMB Number: 1510–0043.

Form Number: FMS 133 and FMS 135.

Type of Review: Extension.

Title: Notice of Reclamation, Electronic Funds Transfer, Federal Recurring Payments (FMS 133); and Request for Debit, Electronic Funds Transfer, Federal Recurring Payments (FMS 135).

Description: A program agency authorizes Treasury to recover payments that have been issued after the death of the beneficiary. FMS Form 133 is used by Treasury to notify the financial institution (FI) of the FI's accountability concerning the funds. When the FI's do not respond to the FMS 133, Treasury then prepared FMS 135 and sends it to the Federal Reserve Bank which services the FI to request the FRB to debit the account of the FI.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 55,000.

Estimated Burden Hours Per Respondent: 12 minutes.

Frequency of Response: Other (one-time application).

Estimated Total Reporting Burden: 77,175 hours.

OMB Number: 1510–0045.

Form Number: FMS 150.1 and FMS 150.2.

Type of Review: Extension.

Title: Trace Request for EFT Payment.

Description: The purpose is to notify the financial institution that a customer (beneficiary) has claimed non-receipt of credit for a payment. The form is designed to help the financial institution locate any problem and keep that customer (beneficiary) informed of any action taken.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 138,427.

Estimated Burden Hours Per Respondent: 8 minutes.

Frequency of Response: Other (as needed).

Estimated Total Reporting Burden: 18,457 hours.

Clearance Officer: Jacqueline R. Perry (301) 344–8577, Financial Management Service, 3361–L 75th Avenue, Landover, MD 20785.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New

Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 00–4411 Filed 2–24–00; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

February 14, 2000.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before March 27, 2000 to be assured of consideration.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: 1512–0028.

Form Number: ATF F 5 (5320.5).

Type of Review: Extension.

Title: Application for Tax-Exempt Transfer and Registration of a Firearm.

Description: The National Firearms Act (NFA) requires that the information contained on this form be submitted to the Secretary for a tax exempt transfer of a NFA firearm. Approval of the form amends the record in the National Firearms Registration and Transfer Record to show the current owner of the firearm.

Respondents: Individuals or households, Business of other for-profit, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 62,321.

Estimated Burden Hours Per Respondent: 4 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 498,568 hours.

OMB Number: 1512–0058.

Form Number: ATF F 5120.25 and ATF F 5120.36.

Type of Review: Extension.

Title: Application to Establish and Operate Wine Premises (5120.25); and Wine Bond (5120.36).

Description: ATF F 5120.25 is the form used to establish the qualifications of an applicant for a wine premises. The applicant certifies the intention to produce and/or store a specified amount of wine and take certain precautions to protect it from unauthorized use. The bond form is used by the proprietor and a surety company as a contract to ensure the payment of the wine excise tax.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 1,720.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 810 hours.

OMB Number: 1512–0079.

Form Number: ATF F 5000.8.

Type of Review: Extension.

Title: Power of Attorney.

Description: ''Legal records, Liability (legal)'' ATF F 1534 (5000.8) delegates the authority to a specific individual to sign documents on behalf of an applicant or principal. 26 USC 6061 authorizes that individuals signing returns, statements or other documents required to be filed by industry members, under the provisions of the Internal Revenue Code or the Federal Alcohol Administration Act are to have that authority on file with ATF.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 5,000.

Estimated Burden Hours Per Respondent: 18 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 3,000 hours.

OMB Number: 1512–0206.

Form Number: ATF F 5110.41.

Type of Review: Extension.

Title: Miscellaneous Requests and Notices for Distilled Spirits Plants.

Description: The information provided by applicants assists ATF in determining eligibility and providing for registration. These eligibility requirements are for persons who wish to establish distilled spirits plant operations. However, both statutes and regulations allow variances from regulations, and this information gives data to permit a variance.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 328.

Estimated Burden Hours Per Respondent: 5 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1,620 hours.

OMB Number: 1512–0398.

Form Number: ATF F 2093 (5200.3), ATF F 2098 (5200.16), ATF F 5230.4 and ATF F 5230.5.

Type of Review: Extension.

Title: Application for Permit Under 26 U.S.C. Chapter 52, Manufacturer of Tobacco Products or Proprietor of Export Warehouse (2093); Application for Amended Permit Under 26 U.S.C. 5712, Manufacture of Tobacco Products or Proprietor of Export Warehouse (2098); Application for Permit Under 26 U.S.C. Chapter 52, Importer of Tobacco Products (5230.4); and Application for Amended Permit Under 26 U.S.C. 5712, Importer of Tobacco Products (5230.5).

Description: These forms and any additional supporting documentation are used by tobacco industry members to obtain and amend permits necessary to engage in business as a manufacture of tobacco products, importer of tobacco products or proprietor of export warehouse.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 1,903.

ESTIMATED BURDEN HOURS PER RESPONDENT

ATF F 2093 (5200.3)	2 hours.
ATF F 2098 (5200.16)	1 hour.
ATF F 5230.4	2 hours.
ATF F 5230.5	1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 3,567 hours.

OMB Number: 1512–0492.

Recordkeeping Requirement ID Number: ATF REC 5000/24.

Type of Review: Extension.

Title: Alcohol, Tobacco and Firearms Tax Returns, Claims and Related Documents.

Description: ATF is responsible for the collection of the excise taxes on firearms, ammunition, distilled spirits, wine, beer, cigars, cigarettes, chewing tobacco, snuff, cigarette papers, tubes and pipe tobacco. Alcohol, tobacco, firearms and ammunition excise taxes, plus alcohol, tobacco and firearms special occupational taxes are required to be collected on the basis of a return.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions.

Estimated Number of Recordkeepers: 503,921.

Estimated Burden Hours Per Recordkeeper: 1 hour.

Frequency of Response: On occasion.

Estimated Total Recordkeeping Burden: 503,921 hours.

OMB Number: 1512–0494.

Recordkeeping Requirement ID Number: ATF REC 5530/3.

Type of Review: Extension.

Title: Liquors and Articles from Puerto Rico or the Virgin Islands.

Description: Information collection requirements for persons bringing nonbeverage products into the United States from Puerto Rico and the Virgin Islands is necessary for the verification of claims for drawback of distilled spirits excise taxes paid on such products.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 20.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Quarterly.

Estimated Total Recordkeeping Burden: 120 hours.

OMB Number: 1512–0530.

Form Number: None.

Type of Review: Extension.

Title: Applications, Notices, and Relative to Importation and Exportation of Distilled Spirits, Wine and Beer, Including Puerto Rico and Virgin Islands.

Description: Beverage alcohol, industrial alcohol, beer and wine are taxed when imported. The taxes on these commodities coming from the Virgin Islands and Puerto Rico are largely returned to these insular possessions. Exports are mainly tax free. These sections ensure that proper taxes are collected and returned according to law.

Respondents: Business or other for-profit.

Estimated Number of Recordkeepers: 20.

Estimated Burden Hours Per Recordkeeper: 9 hours.

Frequency of Response: On occasion.

Estimated Total Recordkeeping Burden: 180 hours.

Clearance Officer: Robert N. Hogarth (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, N.W., Washington, DC 20226.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 00–4412 Filed 2–24–00; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Submission for OMB review; comment request

February 17, 2000.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before March 27, 2000 to be assured of consideration.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: 1512–0081.

Form Number: ATF F 5130.22 and ATF F 5130.23.

Type of Review: Extension.

Title: Brewer's Bond (F 5130.22); and Brewer's Bond Continuation Certificate (F 5130.23).

Description: The Brewer's Bond, ATF F 5130.22, is executed by a brewer and surety company to ensure payment of the excise tax on beer removed from the brewery. The Continuation Certificate, ATF F 5130.23, is executed by a brewer and surety company to continue in effect the coverage of a Brewer's Bond by the surety company.

Respondents: Business of other for-profit.

Estimated Number of Respondents: 280.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 280 hours.

OMB Number: 1512–0144.

Form Number: ATF F 2736 (5100.12) and ATF F 2737 (5100.67).

Type of Review: Extension.

Title: Specific Transportation Bond—Distilled Spirits or Wines Withdrawn for Transportation to Manufacturing Bonded Warehouse—Class Six (F 2736); and Continuing Transportation Bond—Distilled Spirits or Wines Withdrawn for Transportation to Manufacturing Bonded Warehouse—Class Six (F 2737)

Description: ATF F 2736 (5100.12) and ATF F 2737 (5100.67) are specific bonds which protect the tax liability on distilled spirits and wine while in transit from one type of bonded facility to another. They identify the shipment, the parties, the date and the amount of the bond coverage.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 1.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1 hour.

Clearance Officer: Robert N. Hogarth (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, N.W., Washington, DC 20226.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 00–4413 Filed 2–24–00; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

February 17, 2000.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before March 27, 2000 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1120.

Regulation Project Number: CO–69–87, CO–68–87, and CO–18–90 Final.

Type of Review: Extension.

Title: Final Regulations Under Sections 382 and 383 of the Internal Revenue Code of 1986 (CO–69–87 and CO–68–87 Final); and Final Regulations Under Section 382 of the Internal Revenue Code of 1986; Limitations on Corporate Net Operating Loss Carryforwards (CO–18–90 Final).

Description: CO–69–87 and CO–68–87: These regulations require reporting by a corporation after it undergoes an ''ownership change'' under sections 382 and 383. Corporations required to report under these regulations include those with capital loss carryovers and excess credits. CO–18–90: These regulations provide rules for the treatment of

options under Internal Revenue Code (IRC) section 382 for purposes of determining whether a corporation undergoes an ownership change. The regulation allows for certain elections for corporations whose stock is subject to options.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 75,150.

Estimated Burden Hours Per Respondent/Recordkeeper: 2 hours, 56 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 220,575 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 00–4414 Filed 2–24–00; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 00–9]

Retraction of Revocation Notice

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: The following Customs broker license numbers were erroneously included in a published list of revoked Customs brokers licenses in the **Federal Register**.

Port	Name	License No.
Laredo	A and A Customs Brokerage Services, Inc.	10303
New York ...	Walker International Transportation.	11898
Baltimore	Airschott, Inc	06518

Licenses 10303, 11898 and 06518 are valid licenses.

Dated: February 17, 2000.

Raymond W. Kelly,

Commissioner.

[FR Doc. 00–4511 Filed 2–24–00; 8:45 am]

BILLING CODE 4820–02–P

Corrections

Federal Register

Vol. 65, No. 38

Friday, February 25, 2000

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG00–76–000]

Black River Limited Partnership; Errata of February 15, 2000; Notice of Amendment to Application for Commission Determination of Exempt Wholesale Generator Status Issued Febraury 11, 2000

Correction

In notice document 00–4056, appearing on page 8695, in the issue of Tuesday, February 22, 2000, the docket line should appear as set forth above.

[FR Doc. C0–4056 Filed 2–24–00; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. OR98-1-000, OR96-2-000, and OR96-10-000]

ARCO Products Company, a Division of Atlantic Richfield Company, Equilon Enterprises L.L.C., Mobil Oil Corporation, and Texaco Refining and Marketing, Inc., Complainants v. SFPP, L.P., Respondent; Notice of Second Amended Complaint, and Third Original Complaint Against SFPP, L.P.

Correction

In notice document 00–2368 beginning on page 5331 in the issue of Thursday, February 3, 2000, the docket number should read as set forth above.

[FR Doc. C0–2368 Filed 2–23–00; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circulars (AC) 25.981-1X, Fuel Tank Ignition Source Prevention Guidelines; and AC 25.981-2X, Fuel Tank Flammability Minimization

Correction

In notice document 00–2262, beginning on page 5012, in the issue of Wednesday, February 2, 2000, make the following corrections:

1. On page 5012, in the second column, under the heading **ADDRESSES:**, in the 11th line, ''mike.doster@faa.gov'' should read ''mike.dostert@faa.gov''.

2. On page 5012, in the third column, under the heading **Discussion**, in 18th line, ''re'' should read ''are''.

[FR Doc. C0–2262 Filed 2-23-00; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–105089–99]

RIN 1545–AX38

Guidance Under Section 356 Relating to the Treatment of Nonqualified Preferred Stock and Other Preferred Stock in Certain Exchanges and Distributions

Correction

In proposed rule document 00–1529 beginning on page 4203 in the issue of January 26, 2000, make the following correction:

§1.356–7 [Corrected]

On page 4206, in the second column, in §1.356–7(b)(2), the paragraph designated as ''(B)'' should be designated as ''(ii)''.

[FR Doc. C0–1529 Filed 2–24–00; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 49

[TD 8855]

RIN 1545–AV63

Communications Excise Tax; Prepaid Telephone Cards

Correction

In rule document 00–56 beginning on page 1056 in the issue of January 7, 2000, make the following correction:

§49.4251–4 [Corrected]

On page 1059, in the first column, in §49.4251–4(e), Example 6, paragraph (iii), in the 13th and 14th lines, ''price × 10,000 PTC's'' should read ''price ÷ 10,000 PTC's''.

[FR Doc. C9–56 Filed 2–24–00; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Friday,

February 25, 2000

Part II

Department of Energy

Federal Energy Regulatory Commission

18 CFR Parts 154, 161, et al.

Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services; Final Rule

Termination of Rulemaking Proceedings; Proposed Rule

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 154, 161, 250, and 284

[Docket Nos. RM98–10–000 & RM98–12–000; Order No. 637]

Regulation of Short-Term Natural Gas Transportation Services, and Regulation of Interstate Natural Gas Transportation Services

Issued February 9, 2000.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its regulations in response to the growing development of more competitive markets for natural gas and the transportation of natural gas. In this rule, the Commission is revising its current regulatory framework to improve the efficiency of the market and provide captive customers with the opportunity to reduce their cost of holding long-term pipeline capacity while continuing to protect against the exercise of market power. The rule revises Commission pricing policy to enhance the efficiency of the market by waiving price ceilings for short-term released capacity for a two year period and permitting pipelines to file for peak/off-peak and term differentiated rate structures. It effects changes in regulations relating to scheduling procedures, capacity segmentation and pipeline penalties to improve the competitiveness and efficiency of the interstate pipeline grid. It narrows the right of first refusal to remove economic biases in the current rule, while still protecting captive customers' ability to resubscribe to long-term capacity. And, it improves the Commission's reporting requirements to provide more transparent pricing information and permit more effective monitoring of the market.

DATES: The rule will become effective March 27, 2000, with the exception of the removal of paragraph (c)(6) of redesignated § 284.10, which will be effective on September 1, 2000. *Pro forma* tariff filings to comply with certain requirements of the rule are due by May 1, 2000. Changes to reporting requirements are to be implemented by September 1, 2000.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC, 20426.

FOR FURTHER INFORMATION CONTACT: Michael Goldenberg, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. (202) 208–2294; or Robert A. Flanders, Office of Markets, Tariffs, and Rates, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. (202) 208–2084.

SUPPLEMENTARY INFORMATION:

Regulation of Short-Term Natural Gas Transportation Services

Docket No. RM98–10–000

Regulation of Interstate Natural Gas Transportation Services

Docket No. RM98–12–000

Order No. 637

Final Rule

Table of Contents

The Federal Energy Regulatory Commission (Commission) is amending Part 284 of its open access regulations in response to the growing development of more competitive markets for natural gas and the transportation of natural gas. In this rule, the Commission is revising its current regulatory framework to improve the efficiency of the market and to provide captive customers with the opportunity to reduce their cost of holding long-term pipeline capacity while continuing to protect against the exercise of market power. To this end, the final rule makes the following changes in the Commission's current regulatory model:

- The rule grants a waiver for a limited period of the price ceiling for short-term released capacity to enhance the efficiency of the market while continuing regulation of pipeline rates and services to provide protection against the exercise of market power.
- The rule revises the Commission's regulatory approach to pipeline pricing by permitting pipelines to propose peak/off-peak and term differentiated rate structures. Peak/off-peak rates can better accommodate rate regulation to the seasonal demands of the market, while term differentiated rates can be used to better allocate the underlying risk of contracting to both shippers and pipelines.
- The rule adds regulations to improve the competitiveness and efficiency of the interstate pipeline grid by making changes in regulations relating to scheduling procedures, capacity segmentation and pipeline penalties.
- The rule narrows the right of first refusal to remove economic biases in the current rule, while still protecting captive customers' ability to resubscribe to long-term capacity.
- The rule improves reporting requirements to provide more transparent pricing information and to permit more effective monitoring for the exercise of market power and undue discrimination.

While the regulatory revisions adopted in this rule primarily affect the regulation of short-term transportation options, the changing nature of the natural gas market also poses significant challenges to the Commission's current model for regulating long-term transportation capacity. Changing the Commission's fundamental regulatory model goes beyond the scope of this proceeding. However, the Commission is beginning a new effort to monitor the changes taking place in the market so that, after this rulemaking terminates, the Commission can be prepared to reexamine its regulatory framework in light of the challenges posed by the growing competitive market.

The changes in the gas market since wellhead decontrol and Order Nos. 436 and 636 have created a better functioning and more reliable gas market. But the very growth of a more efficient market for natural gas and transportation capacity poses significant

challenges to the Commission's regulatory model which was developed when the market was not competitive or efficient. The Commission discusses below the growth that has occurred in the market since Order No. 636, the current trends and their regulatory implications. The Commission then discusses its regulatory objectives and why the Commission is instituting a new process, independent of this proceeding, to examine whether fundamental changes to its current regulatory framework are needed to respond to the changed structure of the natural gas market. In Parts II through VII, the Commission discusses the adjustments to its current regulatory model that it is making in this rule.

I. Introduction

A. The Changing Natural Gas Market

1. Prologue to Competition

Prior to Order Nos. 436 and 636, and the implementation of the Wellhead Decontrol Act, all aspects of the natural gas market were regulated. The Commission, pursuant to the dictates of the Natural Gas Act (NGA) [1] and then the Natural Gas Policy Act (NGPA) established the prices for natural gas. Interstate pipelines purchased gas at the wellhead and delivered that gas at regulated rates to local distribution companies (LDCs). The LDCs, in turn, distributed gas to industrial, commercial, and residential consumers at rates regulated by the states, which permitted passthrough of the interstate pipeline costs. There was little choice in the market for natural gas or the market for transportation capacity. The market distortions and inefficiencies created by this regulatory regime are well known. The regulation of natural gas prices created economic incentives for producers to divert interstate gas to the unregulated intrastate market where they could obtain higher prices. The regulated prices dampened the incentive to invest in the production of natural gas, which led to the gas shortages in the 1970's.[2]

The passage of the Natural Gas Policy Act (NGPA) [3] in 1978 began to alleviate the problems caused by regulation of the gas commodity by regulating both interstate and intrastate gas prices in an effort to limit the incentives for diversion of gas, seeking to break down the artificial barriers between interstate and intrastate gas markets, and gradually providing for deregulation of natural gas prices. In 1985, in response to the changed market conditions created by the NGPA, the Commission adopted Order No. 436 [4] which established rules for pipelines to offer open access transportation service independent of pipelines' sales service. In 1989, Congress passed the Wellhead Decontrol Act [5] which removed all regulation from the gas commodity by 1993. In passing the Wellhead Decontrol Act, Congress assigned to the Commission the task of regulating interstate pipeline capacity in a way that would ''maximize the benefits of [wellhead] decontrol.'' [6]

In Order No. 636,[7] the Commission found that the pipelines' provision of a bundled gas and transportation service had anticompetitive effects that limited the benefits of open access service and wellhead decontrol. The Commission, therefore, required pipelines to separate their sales of gas from their transportation service and to provide comparable transportation service to all shippers whether they purchase gas from the pipeline or another gas seller. The Commission further adopted initiatives to increase competition for pipeline capacity in order to reduce the prices paid for transportation and ultimately the overall price consumers pay for gas. The Commission allowed firm holders of pipeline capacity to resell or release their capacity to other shippers and required pipelines to permit shippers to use flexible receipt and delivery points. Enabling firm shippers to resell their capacity created competitive alternatives to purchasing pipeline services. The ability to use flexible receipt or delivery points also expanded the capacity alternatives available to buyers of capacity because it meant that buyers were not restricted to using the primary points in the releasing shipper's contract. Capacity buyers could seek capacity from any number of firm capacity holders and use flexible point authority to inject and deliver gas at the points the purchasing shipper chose to use.

The combination of wellhead decontrol, open access transportation, and the unbundling of pipeline gas sales from the pipelines' transportation function created an opportunity for increased efficiency and competition both in the gas commodity market and the transportation market. The Commission's initiatives were supplemented by the actions of state regulators who too saw the need to begin to open local distribution systems by allowing large industrial and commercial customers to purchase their own gas and transport that gas both on the interstate pipeline and on the LDC's facilities.

As a result of the Commission and state open access and unbundling efforts, the stage was set for more efficient and competitive markets to develop that would reduce overall gas prices to consumers. LDCs began to contract for gas supplies in the production area and separately for transportation service from pipelines. Large industrial customers began to do the same, contracting for interstate pipeline capacity and transportation service on LDCs. Market centers began to develop to facilitate the buying and selling of natural gas and, in 1990, NYMEX established a futures market using the Henry Hub as the market exchange center.[8] Shippers and marketers began to use the capacity release mechanism as an alternative to obtaining transportation service from the pipeline, particularly for short-term service.[9]

2. Trends in the Gas Market Today

Today's natural gas market is again in the process of change, and is substantially different operationally and economically from the market in 1993. Upstream and downstream wholesale markets are maturing. As part of this process, both upstream and downstream market centers and gas trading points are increasing, providing shippers with greater gas and capacity choices. The financial marketplace has developed a variety of options and futures contracts that better enable participants to hedge against price risk. Electronic commerce (eCommerce) has grown rapidly

[1] Phillips Petroleum Co. v. Wisconsin, 347 U.S. 672 (1954) (mandating Commission regulation of the gas commodity).

[2] *See* Transcontinental Gas Pipe Line Corporation v. State Oil & Gas Board, 474 U.S. 409 (1986) (NGA's artificial pricing scheme major cause of imbalance between supply and demand); Public Service Commission of New York v. Mid-Louisiana Gas Co., 463 U.S. 319, 30–31 (1983) (interstate natural gas prices could not compete with intrastate prices).

[3] 15 U.S.C. 3301–3432 (1978).

[4] Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol. Order No. 436, 50 FR 42408 (Oct. 18, 1985), FERC Stats. & Regs. Regulations Preambles [1982–1985] ¶ 30,665, at 31,472–74 (Oct. 9, 1985).

[5] Pub. L. 101–60 (1989); 15 U.S.C. 3431 (b)(1)(A) (as of Jan. 1, 1993, any amount paid for a first sales of natural gas is just and reasonable).

[6] Natural Gas Decontrol Act of 1989, H.R. Rep. No. 101–29, 101st Cong., 1st Sess., at 6 (1989).

[7] Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation Under Part 284 of the Commission's Regulations, Order No. 636, 57 FR 13267 (Apr. 16, 1992), FERC Stats. & Regs. Regulations Preambles [Jan. 1991–June 1996] ¶ 30,939 (Apr. 8, 1992).

[8] NYMEX, Henry Hub Natural Gas, *http://www.nymex.com* (November 17, 1999) (futures contract began in 1990).

[9] Department of Energy/Energy Information Administration, Pub. No. DOE/EIA–0560, Natural Gas 1998 Issues and Trends, 26 (June 1999) (growth of capacity release from 1993 to the present).

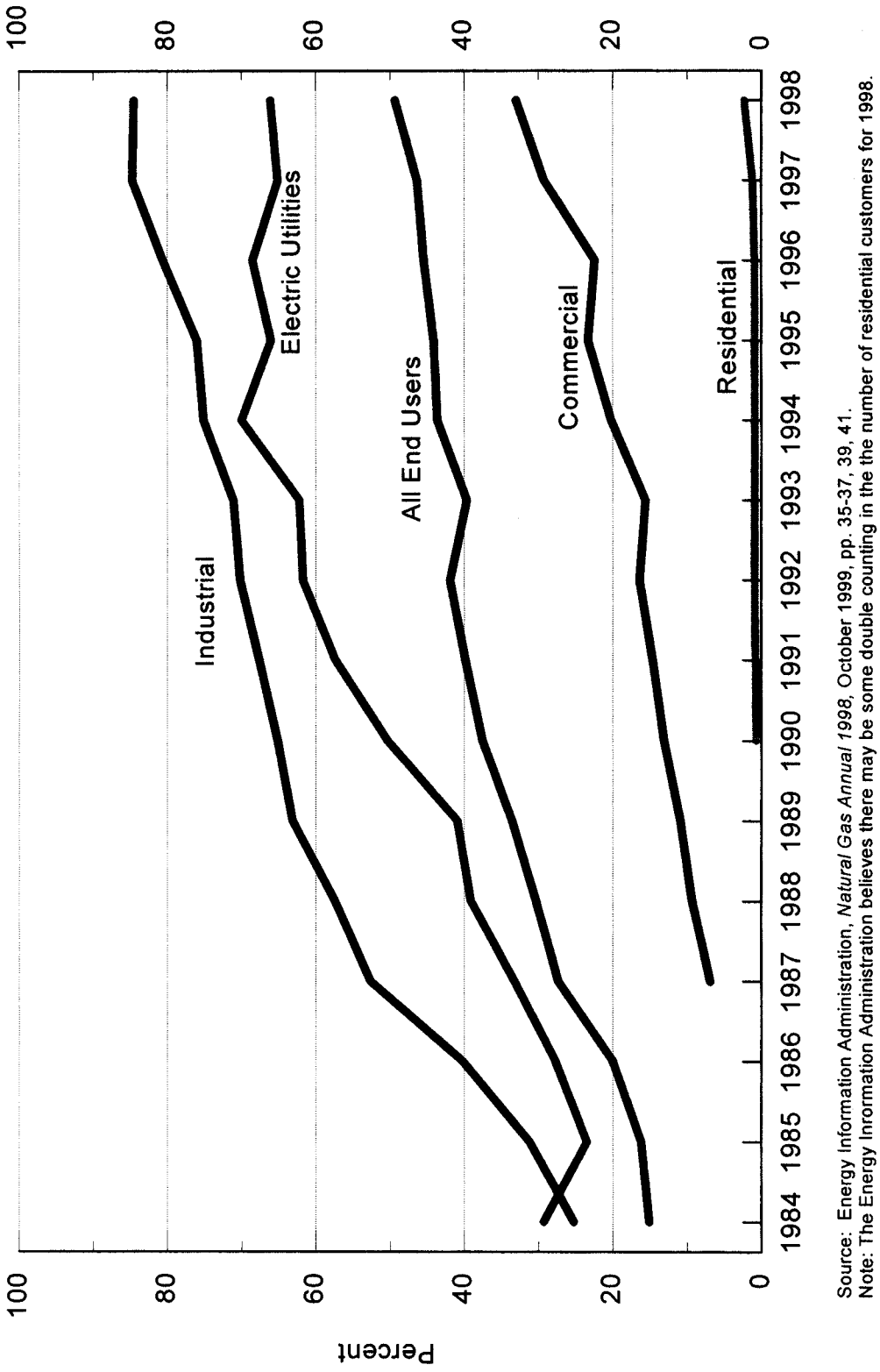
providing greater liquidity in commodity markets and with the promise of providing such liquidity in the transportation market as well. The industry is relying more on self-regulation to develop standards for business and electronic processes that create greater efficiency in moving gas across the integrated pipeline grid. There is greater integration between the natural gas and the electric generation market, with gas usage for power generation expected to grow substantially in the near future. Residential unbundling at the state level is underway which may provide the opportunity for small commercial firms and residential consumers to purchase their gas supplies in a competitive market. These trends are in various stages of development, with the growth of wholesale markets firmly established while residential retail unbundling is still in its infancy. These trends, and the challenges they present the Commission in its regulation of the natural gas industry, are discussed below.

a. *Wholesale Markets.* The wholesale market, composed of both the natural gas commodity market and the transportation market, has grown with new participants with the unbundling of transportation and sales service at the LDC level. Since 1984, large numbers of industrial customers, electric generators, and end use customers have been buying gas from parties other than the pipelines or LDCs, as shown in Figure 1.[10]

BILLING CODE 6717–01–P

[10] As of 1998, the percentage of customers unbundled at the retail level were: industrials—84.5%, electric utilities—66.1%, other end users—49.3%, commercial customers—33%, residential consumers—2.3%. Energy Information Administration, Natural Gas Annual 1998, at 35–37, 39, 41 (Oct. 1999).

Figure 1 -- Retail Unbundling by End User Segment



Source: Energy Information Administration, *Natural Gas Annual 1998*, October 1999, pp. 35-37, 39, 41.
Note: The Energy Information Administration believes there may be some double counting in the the number of residential customers for 1998.

BILLING CODE 6717–01–C

While industrial customers consume the largest amount of gas of any sector, the use of gas for electric generation shows the greatest recent growth, estimated for the first 11 months of 1998 at 11% greater than in 1997.[11]

Since Order No. 636, the industry has witnessed a dramatic growth in the use of marketers to provide gas, arrange transportation, or provide both services to LDCs, industrials, end users, and electric generators. Marketing is still relatively unconcentrated, with the shares of the top 4 marketers actually declining by one-third from 1992–1997.[12] At the same time, marketing sales volume has increased sharply, with the sales volume of the top twenty marketers tripling to 40 trillion cubic feet from 1992 to 1997.[13] Marketers currently hold over 20% of pipeline firm capacity.[14] Gas customers use marketers in a variety of ways. LDCs, which hold firm transportation on a single pipeline, can use the marketer to obtain and deliver gas to an interconnect point on that pipeline and the LDC can use its firm transportation service to deliver that gas to its citygate delivery point. Other customers, such as industrials, may employ a marketer to acquire gas and interstate transportation service to deliver the gas to the industrial's citygate delivery point. Increasingly, marketers are offering additional services to customers such as asset management services where the marketer manages capacity for LDCs as well as price hedging and risk management services, including the provision of financing options.[15]

Market centers: In order for producers and marketers to serve LDCs and other customers, active wholesale markets have developed upstream (in production areas) and they are growing in downstream markets as well. Gas customers have the choice of entering into long-term gas contracts to assure supply or price or they can rely upon monthly and daily spot markets to obtain their gas supplies. Customers further have the option of buying gas at upstream market centers in the production area or at market centers in downstream markets. A market center is a point of interconnection between pipelines where traders can exchange gas and shippers can obtain a variety of services, including gas trading, wheeling, parking, loaning, storage, and transfer facilities.[16]

Market centers enhance competition because buyers and sellers of gas have a greater number of alternative pipelines from which to choose in order to obtain and deliver gas supplies. The number of market centers has increased from 5 in 1992 to 38 today with additional market centers being proposed.[17] Although the initial market centers were in the upstream production areas, downstream market centers are now developing. (*See* Figure 2) [18]

BILLING CODE 6717–01–P

[11] Department of Energy/Energy Information Administration, Pub. No. DOE/EIA–0560(98), Natural Gas Issues and Trends 31–33 (1999).

[12] Department of Energy/Energy Information Administration, Pub. No. DOE/EIA–0560, Natural Gas 1998 Issues and Trends, 152–153 and Figure 55 (June 1999). According to one source, there are 541 electric and gas marketers as of 1998. The Energy Report, June 8, 1998.

[13] Department of Energy/Energy Information Administration, Pub. No. DOE/EIA–0560, Natural Gas 1998 Issues and Trends, 152–153 and Figure 55 (June 1999).

[14] *Id.* at 222, Table D12.

[15] *See* Comments of Dynegy (national marketer of both gas and electricity, asset manager for LDC capacity, owner of interstate pipelines and gathering systems, partner in retail gas ventures); Duke Energy Trading (provides gas and energy-related services); Enron Capital (asset management services, supplying gas for electric loads, price hedging and risk management services, provision of financing options).

[16] S. Holmes, The Development of Market Centers and Electronic Trading in Natural Gas Markets 1–2 (June 1999) (Discussion Paper 99–01, Office of Economic Policy, Federal Energy Regulatory Commission) (available from the Commission).

[17] *Id.*

[18] *Id.,* at Figure 1 and Table 1 (showing market centers in the Midwest, Northeast, and West).

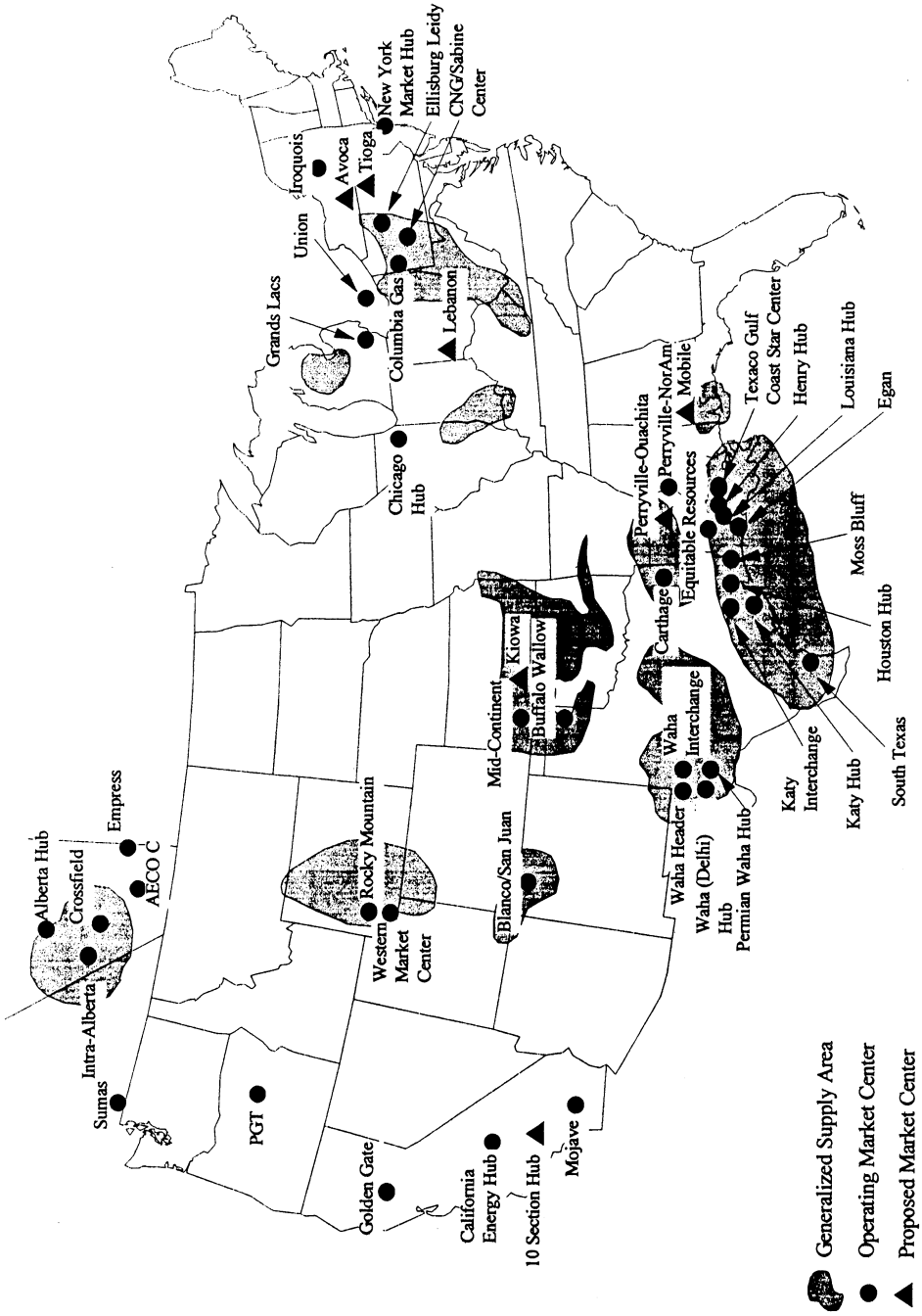


Figure 2 -- Current and Proposed Market Centers as of June 1999

BILLING CODE 6717–01–C

The buying and selling of gas similarly has moved from the production area into downstream markets. Trade publications, for instance, report monthly prices at over 100 locations, including many downstream markets.[19]

Financial market: At the same time, an active financial market has developed on the NYMEX to enable wholesale shippers to hedge against future price risks in gas. The NYMEX futures contract has been the fastest growing instrument in its history, and in October 1992, NYMEX began offering options on natural gas futures, giving market participants additional flexibility in managing their market risk.[20]

Hedging occurs when a seller uses a financial instrument to fix the price at which it will buy or sell a commodity at some future date. By locking in a known price in the future, a buyer in the natural gas market, for example, can protect itself against future increases in the spot market price. Two financial instruments commonly used for hedging are a forward contract and a futures contract.[21]

[19] *See* Henning & Sloan, Analysis of Short-Term Natural Gas Markets, A–2 (Energy and Environmental Analysis, Inc., Nov. 1998).

[20] NYMEX, Henry Hub Natural Gas, *http://www.nymex.com* (November 17, 1999).

[21] A forward contract is a contract made now for the exchange (sale and purchase) of a physical commodity (or financial instrument) at some future date. For many forward contracts, no price is paid or received at the time the contract is entered into. The exchange contemplated in the forward contract almost always takes place. Forward contracts are usually used as a way to buy or sell the commodity.

A futures contract is a standardized contract to take or make delivery of a commodity (or financial instrument) at some future date at the prevailing price at the time they are entered into. Futures contracts differ from forward contracts in that delivery or receipt of the commodity almost never takes place. Holders of futures contracts get out of their contracts by acquiring opposite contracts for the same commodity and delivery date as their own. For example, a person who purchased a futures contract initially would sell a similar contract to get out of the initial contract prior to its delivery date. This process is known as ''offsetting'' the initial contract. After completing it, the purchaser is no longer a party to either contract.

When using futures to hedge, a seller or buyer of natural gas takes a position on the futures market that is the opposite of its position in the physical or cash market. The objective is to lock in a price (and consequently a margin) that is acceptable to the hedger. For example, a producer who wants to receive $2.00 per MMBtu for gas next month would sell a futures contract for $2.00 to deliver gas in that month. If the price on the cash market and the futures market both drop to $1.80 for the next month, the producer will obtain only $1.80 for its gas in the cash market. However, the producer can now close out its futures position by buying a similar contract (offsetting his contract) for $1.80. Since it originally sold for $2.00, it earns $0.20 on its futures position. This, added to the $1.80 received for its gas, provides the producer with the desired $2.00 price for its gas.

Transportation market: The growth of downstream markets has affected the transportation market as well. Shippers now have the choice of buying gas in upstream markets and transporting that gas to their downstream delivery points or purchasing gas in downstream markets.[22] Although not as well developed as the gas market, a more competitive transportation market also has developed with shippers able to choose between alternative means of acquiring capacity. Shippers can choose either short- or long-term services from the pipeline or acquire capacity from other shippers through the capacity release mechanism. As an example of the growth of the capacity release market, released capacity for the 12 month period ending March 1997 averaged 20 trillion Btu/day, totaling 7.4 quadrillion Btu for the year, a 22% percent increase over the previous 12 month period and almost double the level for the 12 months ending March 1995.[23] Unlike the commodity market, however, a formal forward or options market for transportation capacity has not developed, although private parties are providing price hedging and risk management services.[24]

The development of the wholesale gas market is dynamic, reflecting the ever changing supply conditions in the industry. In the past, gas supplies generally flowed north into the mid-west and Northeastern markets. But, with the development of new and increased gas supplies from Canada, gas supplies now flow south and east as well as north. Natural gas supplies from Canada have increased from less than 1 Tcf in 1985 to 3Tcf in 1998, and pipeline expansions would add approximately 3 Bcf per day of capacity to ship gas from Canada to the United States.[25] This flow creates additional market centers and trading points, such as the Chicago hub. Pipeline projects are being proposed to pick up gas at the Chicago hub and carry the gas eastward.[26] New supplies in the outer continental shelf, the production areas of Wyoming and Montana, and in Nova Scotia also create demand for new pipeline construction that will change the way in which shippers and pipelines do business and can lead to the creation of additional market centers and trading points.[27]

Changes have already occurred in the way shippers use pipelines because the growth of downstream market and trading centers has enlarged the purchasing options for gas buyers. As a result of market centers, for example, an industrial gas customer no longer needs to hold pipeline capacity upstream at the wellhead or production area. The industrial customer can hold firm capacity on the downstream pipeline that directly connects to its plant (or the LDC serving its plant) and purchase its gas from a marketer at a downstream market center. The marketer makes the arrangements for providing gas at the market center, which could include purchasing gas at the wellhead or an upstream market center in the production area and transporting the gas to the market center or simply purchasing gas from another party at the downstream market center.

The use of released capacity has made possible the development of virtual pipelines. A virtual pipeline can be created when a marketer or other shipper acquires capacity on interconnecting pipelines and can schedule gas supplies across the interconnect, creating in effect a new pipeline between receipt and delivery points that are not physically connected under a single pipeline management.[28]

Reliability and price: The changes in the wholesale market have increased efficiency and competition in the natural gas market. For example, NYMEX states ''the Commission's actions to date have promoted and produced a short-term gas market that is robust, functioning, efficient, and effective.'' [29] The increase in competition has not come at the expense of reliability, although that was a concern expressed prior to issuance of Order No. 636. For example, the first winter after implementation of Order No. 636, in February 1994, a cold spell hit the Northeast, but the market responded with prices rising to balance supply and demand, with only minor distribution outages well removed from the interstate system. Similarly, the market cleared even during severe

[22] *See* Gas Daily, September 14, 1999, at 2 (reports on citygate and pooling point prices); Natural Gas Week, November 1, 1999, at 7–8 (spot differentials between market hubs in production and consumption markets).

[23] Department of Energy/Energy Information Administration, Pub. No. DOE/EIA–0618(98), Deliverability on the Interstate Natural Gas Pipeline System 83 (1998).

[24] *See* Comment of Enron Capital (providing price hedging and risk management services).

[25] *See* Department of Energy/Energy Information Administration, Pub. No. DOE/EIA–0560, Natural Gas 1998 Issues and Trends, 12–13 (June 1999).

[26] *See* Department of Energy/Energy Information Administration, Pub. No. DOE/EIA–0560, Natural Gas 1998 Issues and Trends, 21 (June 1999).

[27] *Id*; If You Build It, Will They Come (1999 Status Report), American Gas Association, Appendix A (summarizing new pipeline construction projects related to gas supplies in the Western Canada sedimentary basin, the deepwater Gulf of Mexico, and the Rocky Mountain states.)

[28] Comments of Dynegy and Reliant.

[29] Comments of NYMEX, at 2.

demand conditions during the winter of 1996.[30] Indeed, competition may improve reliability by enabling the market to adjust to demand conditions quickly without the need to rely on regulatory allocation or curtailment policies to determine who obtains gas.[31]

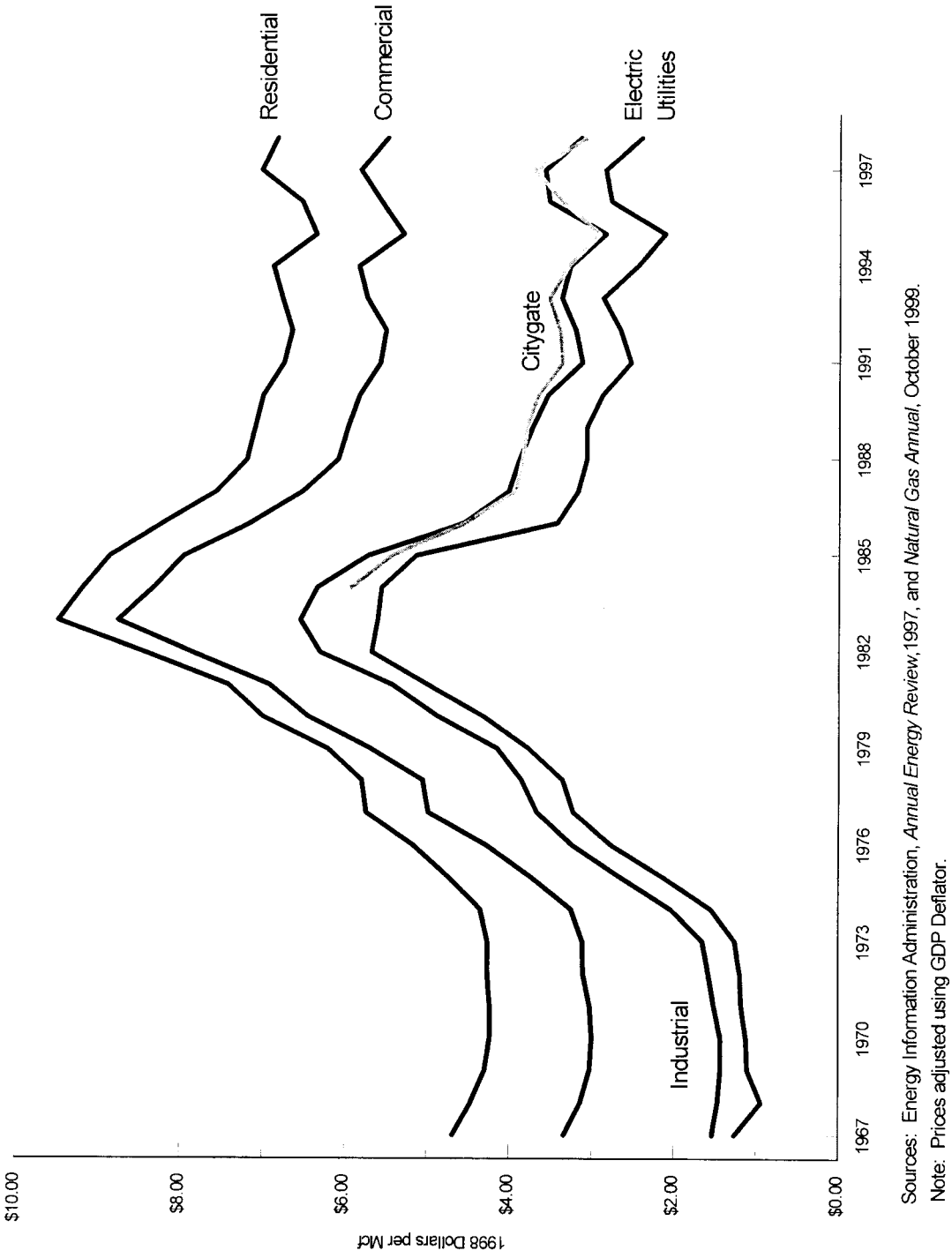
The ultimate test of any regulatory change is the impact of those changes on consumers. By this measure, wellhead decontrol and the Commission's policies have benefitted consumers by lowering the overall price they pay for natural gas. From 1983–1997, the price of natural gas to all industry sectors has fallen significantly from the peaks reached during the periods of gas price regulation and bundled sales. (See Figure 3)

BILLING CODE 6717–01–P

[30] *See* R. O'Neill, C. Whitmore, M. Veloso, The Governance of Energy Displacement Network Oligopolies, Discussion Paper 96–08, at 16–17 Federal Energy Regulatory Commission, Office of Economic Policy, revised May 1997) (copy available from the Federal Energy Regulatory Commission).

[31] *Id.* (concluding that the unbundled gas market has responded to severe demand conditions better than the traditionally regulated electric market).

Figure 3 -- Average Prices of Natural Gas by Industry Sector 1967-1998



Sources: Energy Information Administration, *Annual Energy Review*, 1997, and *Natural Gas Annual*, October 1999.
Note: Prices adjusted using GDP Deflator.

BILLING CODE 6717–01–C

eCommerce: The development of the wholesale gas market has been aided by the standardization of pipeline business practices and communication methodologies and the growth of eCommerce. As a result of Commission initiatives, the industry formed a self-governing standards development organization, the Gas Industry Standards Board (GISB), to develop standards for pipeline business and communication practices that enhance efficiency by better enabling shippers to move gas through markets centers and across interconnected pipelines.[32] GISB is a private organization which brings together all segments of the natural gas industry to develop needed standards. Its purpose is to reduce the disparities and inconsistencies in pipeline business and communication practices that have impeded the development of an integrated pipeline grid.

The Commission has encouraged the gas industry to move toward the use of eCommerce to increase efficiency. Beginning in 1993, the Commission established industry working groups to develop a set of electronic standards governing the trading of released capacity on pipeline Electronic Bulletin Boards.[33] Since then, GISB has been developing standards for conducting a wide range of business transactions over the Internet, including scheduling, transmission of flowing gas information, invoicing, and capacity release transactions.[34]

Along with the development of electronic communication between pipelines and shippers, an electronic market has developed to facilitate the buying and selling of natural gas. Electronic trading of natural gas is the furthest along of all energy markets.[35] Without electronic trading, shippers have to obtain gas by checking industry publications for a range of gas prices for the previous day, contacting potential gas suppliers using the telephone or fax machines to obtain price quotes to compare, deciding which is the best deal, and consummating the final transaction. Electronic trading creates a more efficient market by expanding the number of buyers and sellers interacting, reducing the time and resources needed to obtain price information and consummate trades, providing anonymity so traders do not have to disclose their market positions, and providing traders with more confidence in the prices they obtain.[36] One study estimates that on-line trading of natural gas in 1999 will amount to $10 billion.[37] Many of these electronic transactions occur at downstream markets. (See Figure 4 showing the electronic gas trading points for Altrade and Natural Gas Exchange).[38]

BILLING CODE 6717–01–P

[32] Standards For Business Practices Of Interstate Natural Gas Pipelines, Order No. 587, 61 FR 39053 (Jul. 26, 1996), III FERC Stats. & Regs. Regulations Preambles ¶ 31,038 (Jul. 17, 1996).

[33] Standards of Electronic Bulletin Boards Required Under Part 284 of the Commission's Regulations, 59 FR 516 (Jan. 5, 1994), FERC Stats. & Regs. Regulations Preambles (Jan. 1991–June 1996) ¶ 30,988 (Dec. 23, 1993).

[34] Standards For Business Practices Of Interstate Natural Gas Pipelines, Order No. 587, 61 FR 39053 (Jul. 26, 1996), III FERC Stats. & Regs. Regulations Preambles ¶ 31,038 (Jul. 17, 1996), Order No. 587–B, 62 FR 5521 (Feb. 6, 1997), III FERC Stats. & Regs. Regulations Preambles ¶ 31,046 (Jan. 30, 1997).

[35] V. Lief, The Surge of Online Energy, The Forrester Report, 2–3 (Sept. 1999); Comment of Altra; Enermetrix.com, *http://www.enermetrix.com.*

[36] As one interviewee in the Forrester report explained: ''before online trading, if you didn't talk to people all morning—you'd miss the market. We use it quite a bit and sometimes its the only market.'' V. Lief, The Surge of Online Energy, The Forrester Report, 2 (Sept. 1999). *See* Electronic Trading Revolution Not Over, Gas Daily, Vol. 15, No. 224, (Nov. 18, 1998) (electronic trading provides access to hundreds of potential transaction partners and price transparency).

[37] V. Lief, The Surge of Online Energy, The Forrester Report, 9 (Sept. 1999).

[38] The trading points for Altrade were provided courtesy of Ultra. The Natural Gas Exchange trading points are taken from S. Holmes, The Development of Market Centers and Electronic Trading in Natural Gas Markets 7 (June 1999) (Discussion Paper 99–01, Office of Economic Policy, Federal Energy Regulatory Commission) (available from the Commission).

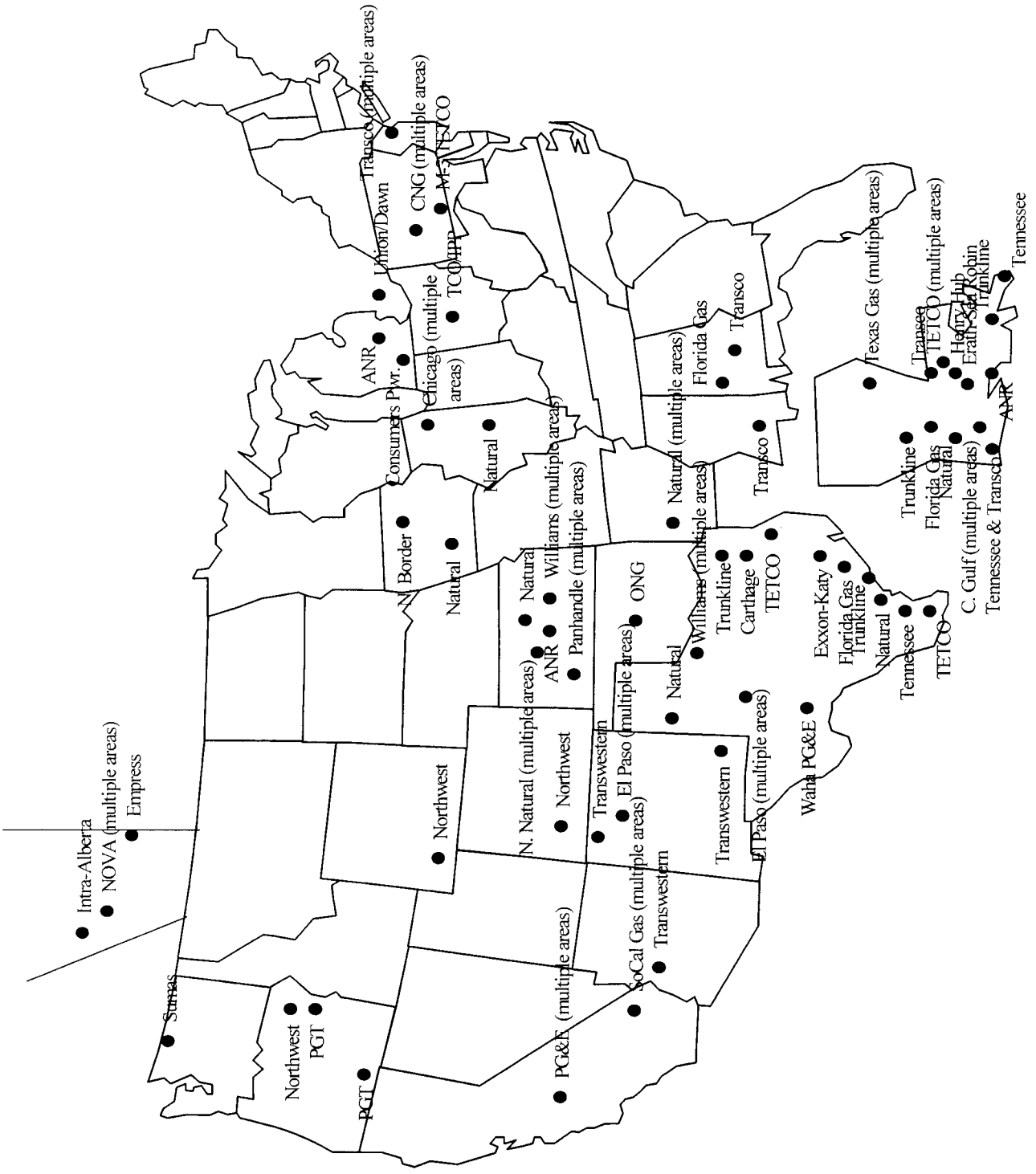


Figure 4 -- Altrade and Natural Gas Exchange Trading Points

BILLING CODE 6717–01–C

New electronic trading companies are entering the market [39] and eCommerce for gas is expected to grow, reaching 20% of total gas business within two years.[40] The development of eCommerce can equalize the marketplace between large and small customers. As a customer quoted by Forrester Research states: ''Using online services has made us more efficient. We're a small shop so our resources are limited. The system puts us on the same page as the big guys.'' [41]

Implications for Commission regulation: Commodity and transportation markets are closely interdependent in the natural gas business with changes in one market affecting the other. This interdependence has important implications for the Commission's regulation of pipeline transportation. While the growth of a vibrant active wholesale marketplace has enhanced competition, this growth, particularly the development of downstream market centers and trading points, also creates both challenges and opportunities for Commission regulatory policy.

Many LDCs' contracts have expired, or are expiring soon, providing, in many cases, the first opportunity for these LDCs to recontract in the competitive market spawned by Order Nos. 436 and 636.[42] LDCs are considering whether to continue their current firm-to-the-wellhead capacity contracts or whether to reduce their contractual entitlements or to rely more heavily on purchasing gas from producers or gas marketers at downstream market centers or trading points. It is not clear whether marketers will choose to pick up all or some of the firm capacity relinquished by LDCs. Marketers' purchase of firm capacity, for instance, has been increasing, with their holdings increasing by 18% during the 12-months ending July 1, 1998.[43] But, unlike LDCs, marketers are not guaranteed passthrough of capacity costs and therefore are likely to subscribe to shorter term contracts than what the LDCs signed in the past.[44] Marketers, and other transportation customers, also may be less willing than LDCs to sign long-term contracts with *Memphis* [45] clauses that permit pipelines to increase prices unilaterally by filing new rate cases.

The renegotiation of contracts, both as to coverage and term, increases the risks for pipelines that may have greater difficulty reselling capacity (capacity turnback).[46] This raises issues about how to compensate pipelines for the increased risk as well as the proper way to design rates for customers remaining on the system.[47]

The growing importance of market centers suggests the need for policy development that will continue to foster the development of both upstream and downstream market centers. For instance, some urge that in order to further market center development, pipeline rate zones need to be redrawn to coincide better with market centers, rates need to be reestablished so that upstream capacity costs are not included in downstream rates, and capacity segmentation policies should be enhanced so that shippers can obtain capacity only on portions of a pipeline.[48] Reliant also suggests that the use of market centers can be encouraged by the creation of virtual pipelines in which one pipeline is able to acquire capacity on another pipeline.

The movement toward eCommerce highlights the need to create greater integration between the allocation system for pipeline and released capacity and the pipeline scheduling system. In addition, the integration of electronic trading for gas and pipeline capacity would further efficiency by permitting shippers to complete all aspects of a transaction in a single online auction. GISB has recently approved standards for title transfer tracking under which pipelines will track gas transactions between parties at pooling points using the electronic protocols for scheduling gas. Third parties also will be able to consummate gas trades at pooling points and have those trades processed by the pipeline.[49] Such title transfer services could form the basis for electronic trading that fully integrates gas and capacity trades with the pipelines' scheduling system.

b. Integration of the Gas and Electric Markets. The increasing development of wholesale markets for gas also are affected by the growing synergy between the gas and electric markets. The Commission, in Order No. 888,[50] and the states have begun to open the electric market to competitive forces in generation, a trend which is having, and is projected to have, a significant effect on gas markets. Gas for power generation is projected to grow 4.5% annually from 1997 through 2020, reaching 9.2 Tcf, a level three times the 1997 level of usage.[51] As a result of this new demand, the gas market is projected to grow from 22 Tcf per year today to 30 Tcf per year by 2010, a 27% increase over current levels.[52] Distributed power generation located near the end user may provide another vehicle for the use of natural gas, as many of these units are projected to use natural gas as an energy source.[53] Gas fired electric generators contend that their use of natural gas as a supply source would be improved by the provision of transportation service that enables them to coordinate the delivery of gas with their need to generate electricity.[54]

The increased integration of gas and electric markets is reflected in the

[39] Enron Launches Global Web-based Commodity Trading Site, *http://www4.enron.com/corp/pr/releases/1999/ene/EnronOnline.html* (Internet online trading for wholesale energy and other commodities).

[40] V. Lief, The Surge of Online Energy, The Forrester Report (Sept. 1999).

[41] *Id.* at 5. Another customer stated: ''Before we just always went to the big guys even though we were not necessarily getting the best prices. Now everyone is using the screens, everyone has the prices, and everyone has the advantage—making the net one culprit along the path towards reduced margins.''

[42] *See* Comments of Columbia.

[43] Department of Energy/Energy Information Administration, Pub. No. DOE/EIA–0560, Natural Gas 1998 Issues and Trends, 136 (June 1999).

[44] *Id.* at 137.

[45] United Gas Pipeline Co. v. Memphis, 358 U.S. 103 (1958).

[46] The Energy Information Agency has estimated the nationwide turnback level at 20% of the long-term contracted capacity as of July 1998, with variations by region. Department of Energy/Energy Information Administration, Pub. No. DOE/EIA–0560(98), Natural Gas Issues and Trends 144 (1999).

[47] The Commission already has been faced with some of these difficulties. *See* El Paso Natural Gas Company, 83 FERC ¶ 61,286 (1998)(remarketing of turnback capacity); El Paso Natural Gas Company, 79 FERC ¶ 61,028, *reh'g denied,* 80 FERC ¶ 61,084 (1997), *remanded* Southern California Edison Company v. FERC, 162 F.3d 116 (D.C. Cir. 1999) (attempt to reach settlement on capacity turnback); Natural Gas Pipeline Company of America, 73 FERC ¶ 61,050, at 61,128–29 (1995) (recovery of turnback capacity costs).

[48] *See* Comments of Production Area Rate Design Group; Reliant.

[49] Final Actions Regarding Title Transfer Tracking, standard 1.3.64, *http://www.gisb,org/final.htm* (ratified on January 23, 1999).

[50] Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities, Order No. 888, 61 FR 21540 (May 10, 1996), FERC Stats. & Regs. Regulations Preambles [Jan. 1991–June 1996] ¶ 31,036 (Apr. 24, 1996).

[51] Department of Energy/Energy Information Administration, Pub. No. DOE/EIA–0560(98), Natural Gas Issues and Trends 33 (1999).

[52] Department of Energy/Energy Information Administration, 1999 Annual Energy Outlook (30 Tcf by 2010). *See* Gas Research Institute, Baseline Projection Data Book, at Page Sum 20 (1998 edition) (30 Tcf by 2015).

[53] Department of Energy/Energy Information Administration, Pub. No. DOE/EIA–0560(98), Natural Gas Issues and Trends 33. Distributed power is projected to account for 20 percent of additions to generating capacity, or 35 Gigawatts, over the next two decades. *See* Distributed Power Coalition of America, *http://www.dpc.org/faq.html* (November 17, 1999) (gas turbines most popular means of generating distributed power).

[54] See Comments of INGAA, Williams Companies, Reliant, Sithe, Sempra Energy, EEI. See *also* Reliant Energy Gas Transmission Company, 87 FERC ¶ 61,298 (1999) (hourly flexibility service designed to meet needs of power generators).

mergers between power generators and pipeline companies as well as the number of marketers that resell both gas and electricity.[55] Some marketers are operating their own generation plants.[56] For some customers, the energy markets have converged to a Btu market where the customer can purchase whatever energy source is cheapest at the time.

The pace of mergers and alliances raises questions about the future structure of the industry.[57] Mergers between pipeline corporations can increase concentration and reduce competition in markets where the merged firms previously competed. Vertical mergers between pipeline companies and gas fired power generators raise concerns about the ability of the integrated firm to injure competition by favoring its vertically integrated affiliate.[58] The increasing use of asset managers by LDCs [59] and other shippers to manage their pipeline capacity could result in the concentration of pipeline capacity in a few hands, reducing the competitiveness of the capacity resale market. The potential for increasing affiliation between pipelines and power generators also raises questions about whether changes are needed in the Commission's regulations of pipeline affiliate relationships, which are limited to pipeline marketing affiliates.[60]

c. Residential Retail Markets. The unbundling that already has taken place may be only a harbinger of the future. While unbundling for the larger industrial and end-use customers is at relatively high level,[61] unbundling for smaller commercial customers and for residential consumers has not taken place to the same extent. The growing focus in the states is on efforts to complete the unbundling process by offering unbundled services to commercial and residential consumers. According to the Energy Information Administration, as of June 1999, eleven states have active unbundling programs or are in the implementation phase, nine states and the District of Columbia have pilot programs or partial unbundling programs (with one state scheduled to begin its pilot program in November 1999), eleven states are considering action on unbundling plans, and eighteen states have taken no action. Consumer acceptance of these programs is mixed.[62] In Nebraska, 97% of eligible residential consumers have elected to choose their own supplier, while in other states participation of eligible consumers is 2% or less.[63]

The competitive dynamics of both gas and electric unbundling are generating a movement toward new ways of selling energy products to residential consumers. For instance, eCommerce is beginning to enter the consumer arena with companies offering residential customers one-stop shopping over the Internet for electric and gas service from affiliated companies as well as offering other utility services, such as long-distance telephone and Internet services.[64] There are business alliances between gas distributors and traditional consumer retailers to sell both gas and electricity to residential and commercial customers.[65]

Whether and how far residential unbundling will progress is one of the major unknowns in the current market and, even if it does occur, the implications of such a change are hard to predict. To the extent full residential unbundling occurs, LDCs would exit the interstate transportation function entirely, being replaced by producers and marketers, neither of which have the ability automatically to pass costs on to consumers. In the short-run, retail unbundling has created more uncertainty about contract duration. LDCs, which may unbundle their transportation service from gas sales, are unwilling to enter into long-term contracts for interstate capacity until the structure of unbundling in their state is determined.[66] Similarly, the marketers that may replace the LDCs are not in position yet to determine whether to sign long-term capacity contracts and for what quantities. In the long-run, however, the effect of unbundling on firm capacity holdings is less clear. Marketers still may choose to subscribe to firm capacity in order to guarantee service. In some states, regulators, concerned with ensuring reliable deliveries, are considering whether LDCs should be required to be the suppliers of last resort in case marketers default or whether marketers will be required to hold primary firm capacity as a prerequisite to participation in unbundling programs.[67]

B. The Commission's Response to the Transition in the Market

The Commission's response to the changes taking place in the market must be informed by its regulatory responsibilities and objectives.

1. The Commission's Regulatory Objectives

The Commission has the regulatory responsibility under the Natural Gas Act to ensure that pipeline rates and services are just and reasonable and not unduly discriminatory.[68] Just and reasonable rates and services need to be designed to achieve two principal objectives. They should promote competitive and efficient markets,[69] while mitigating market power and preventing undue discrimination, especially for the Commission's ''prime constituency, captive customers vulnerable to pipelines' market power''.[70] In short, the Commission's regulatory policy must seek to reconcile the objectives of fostering an efficient market that provides good alternatives

[55] Department of Energy/Energy Information Administration, Pub. No. DOE/EIA–0560(98), Natural Gas Issues and Trends 147–67, 231–42 (1999) (discussing the increased trend toward corporate alliances and mergers).

[56] *See* Comments of Dynegy (owner of power generation facilities).

[57] *See* Comment of Dynegy (expressing concern about the integrated corporations using transportation capacity as a marketing lever to obtain business for a generation affiliate).

[58] The Federal Trade Commission entered into a consent decree in one vertical merger between a pipeline and an LDC out of concern about the ability of the LDC to manipulate its confirmation practices to favor its pipeline affiliate. CMS Energy Corp, 64 FR 14725 (Mar. 26, 1999).

[59] *See* Comments of Dynegy, Enron Capital (providing asset management services).

[60] 18 CFR 161 (1999).

[61] See text and notes, *supra,* at Figure 1.

[62] Department of Energy/Energy Information Administration *http://www.eia.doe.gov/oil gas/natural gas/restructure/state/us.html* (2/2/00) (The eleven states that have active unbundling programs or are in the implementation phase are: New Mexico, New York, West Virginia, Georgia, Maryland, Massachusetts, New Jersey, Ohio, California, Colorado, Pennsylvania).

[63] *Id.*

[64] *See* Power Trust.com, *http://www.powertrust.com;* Essential.com, *http://essential.com.*

[65] Department of Energy/Energy Information Administration, Pub. No. DOE/EIA–0560(98), Natural Gas Issues and Trends 231 (1999) (alliance between Columbia Energy and Amway Corporation for door-to-door marketing of gas and electricity); *http://www.amway.com/infocenter/pressrel/pressrel49.asp* (November 18, 1999) (program expands from Georgia to Ohio); Ga. Marketers Unveil Deals, Gas Daily, November 16, 1999, at 5 (alliance between SCANA Energy and Krogers grocery stores to market natural gas services at kiosks).

[66] Comments of AGA I, PSE&G, Columbia.

[67] See Comment of ConEd.

[68] Natural Gas Act, § 4, 15 U.S.C. 717(d).

[69] Under the Wellhead Decontrol Act, for example, the Commission is obliged to structure its regulatory framework to ''improve (the) competitive structure [of the natural gas industry] in order to maximize the benefits of (Wellhead) decontrol. Natural Gas Decontrol Act of 1989, H.R. Rep. No. 101–29, 101st Cong., 1st Sess., at 6 (1989); Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation Under Part 284 of the Commission's Regulations, Order No. 636.57 FR 13267 (Apr. 16, 1992), FERC Stats. & Regs. Regulations Preambles [Jan. 1991–June 1996] ¶ 30,939, at 30,932 (Apr. 8, 1992).

[70] United Distribution Companies v. FERC, 88 F.3d 1105, 1123 (D.C Cir. 1996). *See* Maryland People's Counsel v. FERC, 761 F.2d 780, 781 (D.C. Cir 1985); FPC v. Hope Natural Gas Co., 320 U.S. 591, 610 (1944); Associated Gas Distributors v. FERC, 824 F.2d 981, 995 (D.C. Cir. 1987), *cert. denied,* 485 U.S. 1006 (1988).

to as many shippers as possible while at the same time creating a regulatory framework that is fair and protects captive customers without good alternatives.

In order to achieve these basic objectives, there are several subsidiary ends that regulatory policy should strive to achieve. Regulatory policies should seek to expand customers' alternatives and choices, which will in turn dissipate the ability to exercise market power. These policies need to create efficient market mechanisms that will enhance competitive options. They also should ensure that reliable information is available to better enable shippers to make informed choices in the market and to permit shippers and the Commission to monitor for undue discrimination and the exercise of market power. At the same time, to the extent adequate competition does not exist, regulation needs to mitigate residual market power and protect captive customers. In addition, regulation needs to be fair and administratively efficient, so that the regulation itself does not impose undue or unnecessary costs on the industry.

2. The Commission's Response to the Changing Gas Market

Since Order No. 436, the Commission has been reexamining its rate and regulatory policies to adapt those policies to changes in the competitive market and to ensure that its regulatory policies promote its goals and objectives.[71] In analyzing the interrelation between the Commission's current regulatory policy and the changing natural gas market, the Commission has concluded that its current regulatory framework does not meet the current needs of the market. In some situations, the current regulatory model inhibits the ability of the market to respond efficiently to demand conditions, limits shippers' capacity choices, and may not provide the lowest rates to captive customers.

The Commission is taking two steps to better achieve its regulatory objectives. First, in this rule, the Commission is taking an interim step to revise aspects of its current regulatory model to improve competition and efficiency, without making fundamental changes to that model. Second, the Commission is beginning an effort, outside of this proceeding, to examine more fundamental changes to its regulatory model.

a. The Changes Adopted in this Rule. The changes adopted in this rule are designed to improve the efficiency of the market and increase competition while continuing cost-of-service regulation to protect against the exercise of market power by pipelines. These changes involve modifications to the Commission's ratesetting policies to enable rates to better reflect market demand and to reduce the rate burden on captive customers, improvements to the Commission's regulation of the pipeline grid to increase competition, and revisions to the Commission's reporting requirements.

With respect to rates, the Commission is waiving the price ceiling for short-term capacity release transactions for a period of two years. This change is intended to improve shipper options and market efficiency during peak periods, when an efficient and effective market is most needed. During peak periods, the maximum rate cap on capacity release transactions inhibits the creation of an effective transportation market by preventing capacity from going to those who value it the most. The elimination of the rate ceiling will eliminate this inefficiency and enhance shipper options in the short-term market. To protect against the potential exercise of market power, the Commission is maintaining cost-of-service regulation of the pipelines as well as improving efficiency and competition across the pipeline grid along with enhanced reporting requirements that will provide more information to the market and permit better detection of market power abuses. While the changes in the natural gas industry support the removal of the rate ceiling, the Commission recognizes that this is a significant change in policy. The limited term waiver is intended to provide an opportunity for Commission review of this policy after the industry and the Commission have experience over two winters, which should be sufficient to analyze the results of this change.

The Commission further is revising its regulatory policies regarding rates for pipeline services to enable pipelines to file for peak/off-peak and term differentiated rates if a pipeline finds that such rates better reflect the demands and risks it faces. Such rates, however, would still have to satisfy the revenue and cost constraints of the traditional regulatory model. To help facilitate the trend toward eCommerce, the Commission is encouraging both pipelines and third-parties to develop voluntary auctions and is willing to consider waivers of some of its regulatory requirements that may impede the development of capacity auctions.

The removal of the rate ceiling for short-term capacity release transactions and the ability of pipelines to institute peak/off-peak and term-differentiated rates should help to reduce the cost of capacity to captive customers. The captive customers currently pay maximum rates for transportation capacity during peak and off-peak periods to support the pipeline system, while short-term shippers benefit by paying lower market prices during off-peak periods reflecting the reduced demand on the system, but do not face the market rate for capacity during peak periods as a result of the rate ceiling. The changes in ratemaking policies adopted in this rule will help to reduce the revenue responsibility of captive customers by placing on short-term shippers more of the burden of paying for peak period usage of the system. The Commission's objective is for the reduction in captive customers' revenue responsibility to be achieved through a combination of increased capacity release revenues, as well as revenue credits, reduced discount adjustments, and lower long-term rates on pipelines instituting peak/off-peak or term-differentiated rates.

To create greater substitutability between different forms of capacity and enhance competition across the pipeline grid, the Commission is revising its regulations regarding scheduling, segmentation and flexible point rights, penalties, and reporting requirements. The Commission is revising pipeline scheduling procedures so that capacity release transactions can be better coordinated with the nomination process. The Commission is further requiring pipelines to permit shippers to segment capacity wherever feasible, which increases potential capacity alternatives and helps to facilitate the development and use of market centers. The Commission's revision to penalty procedures will create appropriate incentives and will provide shippers with increased information and additional services to help them avoid the incurrence of penalties. The changes to the Commission's reporting requirements will enhance the reliability of information about capacity availability and price that shippers need to make informed decisions in a competitive market as well as improve shippers' and the Commission's ability to monitor marketplace behavior to

[71] *See* Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Order No. 436, 50 FR 42408 (Oct. 18, 1985), FERC Stats. & Regs. Regulations Preambles (1982–1985) ¶ 30,665, at 31,534 (Oct. 9., 1985); 18 CFR 284.7(c); Interstate Natural Gas Pipeline Rate Design, 47 FERC ¶ 61,295 (1989) (requiring that rate methodologies must be designed to improve allocative and productivity efficiency).

detect, and remedy anticompetitive behavior.

The Commission is clarifying its policies regarding two aspects of pipeline service: the right of first refusal and negotiated rates and terms and conditions of service. The Commission is narrowing the right of first refusal (ROFR) in its regulations so that this right interferes as little as possible with the efficient allocation of pipeline capacity, while protecting captive customers against the loss of transportation service. The Commission is clarifying the operation of its policies regarding negotiated rates and negotiated terms and conditions of service in light of its decision in this rule not to adopt regulations providing pre-approval for pipelines to negotiate terms and conditions of service.

b. Process for Future Regulatory Policy Development. All of the changes in this rule remain within the Commission's current regulatory framework. As discussed earlier, many of the trends in the current market raise questions about a number of Commission regulatory policies, including the effectiveness of the current regulatory model in light of changes to long-term contracts, the effect of regulatory policies on market centers, the need to improve the effectiveness of eCommerce, and the regulation of pipeline affiliates not covered by the current affiliate regulations. It is not yet clear in what direction these trends will lead the market. The changes adopted in this rule are designed to improve the efficiency of the market and to facilitate its development, primarily toward the open and competitive marketplace that current conditions appear to support. Whether more fundamental changes are needed will depend on future market developments and especially how the industry responds to the changes adopted in this rule.

In the Notice of Proposed Rulemaking (NOPR) [72] and Notice of Inquiry (NOI),[73] the Commission sought comment on a variety of fundamental changes to its current regulatory methods to respond to issues raised by the changes in the gas market. In the NOPR, for example, the Commission sought comment on whether mandatory auctions should be used to allocate pipeline capacity and whether pipelines should receive pre-approval for negotiation of the terms and conditions of service with individual shippers. In the NOI, the Commission inquired as to whether fundamental changes in the cost-of-service rate methodology, such as indexing and incentive and performance based rates, should be implemented, whether market based rates are appropriate for turned back capacity, whether a periodic review of pipeline rates should be implemented, whether to revise the straight-fixed-variable rate design requirement, and whether options other than cost-based ratemaking would be more efficient.

Some commenters contend the Commission should make fundamental changes in its regulatory model to accommodate the changes in the market, maintaining that such changes would be consistent with the Commission's responsibilities under the Natural Gas Act. AGA and Williams, for instance, envision a market that is moving toward a structure divided between two classes of pipeline shippers: One class comprised of those customers with sufficient alternatives and options which insulate them from the exercise of market power by the pipelines; the other class comprised of those customers who are captive and have limited choices. As AGA states:

> Some LDCs are captive to pipelines' market power because they are tied to capacity contracts for many more years or because pipeline capacity is constrained into their region.* * * Other LDCs are not subject to abuse of market power by pipelines because they have been able to renegotiate their capacity contracts to better reflect their current and anticipated need for capacity and because capacity is not constrained into the region.''[74]

AGA proposes that the Commission institute two tracks for regulating pipeline transportation service, each available for any shipper to choose. One track would be for cost-based regulated tariff service and the other track for market-responsive negotiated services. The Williams Companies similarly assert that pipelines need to be able to respond to the needs of new customers, like gas fired power generators, by offering market responsive rates and contracts, while still providing cost-based rates as protections for all shippers.

Reliant contends that the development of greater competition in certain areas should lead the Commission to place greater reliance on the use of market forces to establish rates. It contends, for example, that market-based rates should be permitted for pipelines in producing regions where interstate pipelines compete with intrastate pipelines, when a pipeline is unable to sell turned back capacity, and where customers can solicit bids for services from more than one pipeline.

A number of parties support the use of auctions as creating more efficient and fairer methods of allocating capacity,[75] although many other parties are concerned about whether auctions can be designed efficiently and the ability to coordinate gas and capacity purchases in an auction limited to pipeline capacity.[76] INGAA is concerned that auctions would lower capacity prices which would threaten pipeline revenue recovery, and AGA is concerned about similar impacts on the value of released capacity.

Amoco and NGSA recommend significant changes in current regulatory policy through the adoption of an incentivized cost-of-service of service regulatory model to replace existing cost-of-service procedures. Others support periodic rate reviews or other methods of readjusting pipeline rates.[77] The Customer Coalition argues that the need to review these long-term issues requires that the Commission consider changes through a new NOPR, additional comments, or further technical conferences.

After reviewing the comments, and the current state of the industry, the Commission has determined that (1) it must approach its regulatory policymaking more strategically to determine whether it needs to examine and begin developing fundamentally new regulatory methods in anticipation of changing market conditions and (2) it must monitor market conditions on an ongoing basis to ensure that its decisions do not inhibit competition or foster inefficiency. In these proceedings, the Commission has studied improvements to its regulatory policies that would comport with current developments in the market. It must now ask whether it is effective in this dynamic environment to engage in generic policymaking without a deeper understanding of which possible regulatory model best achieves the Commission's regulatory objectives within the changing structure of the natural gas market and energy markets generally. The Commission, therefore, will be instituting a new process to undertake a continuing examination of

[72] Regulation of Short-Term Natural Gas Transportation Services, Notice of Proposed Rulemaking, 63 FR 42982 (Aug. 11, 1998), FERC Stats. & Regs. Proposed Regulations (1988–1998) ¶32,533 (July 29, 1998).

[73] Regulation of Interstate Natural Gas Transportation Services, Notice of Inquiry, 63 FR 42973, IV FERC Stats. & Regs. Notices ¶35,533 (July 29, 1998).

[74] AGA II, at 5.

[75] Comments of Amoco, Altra, Sithe, Southern Company Energy Marketing.

[76] *E.g.,* Comment of Dynegy.

[77] Comments and Supplemental Comments of the Customer Coalition.

the market and the relationship of its rules to the market. This examination will involve questions of rate design and risk allocation in light of changes to long-term contracting policies, improving market centers, creating greater integration of capacity allocation and scheduling processes with the growing trend toward eCommerce, and reexamining the methods for setting and reviewing pipeline rates.

In a nutshell, the Commission still largely applies a coherent ''model'' of regulation designed for traditional regulated monopolies. Its ratemaking tenets were not fundamentally questioned even as Order Nos. 436 and 636 were adopted. However, the current market may in fact call into question the basic underpinnings of this model and require the Commission to examine the legitimacy of alternative models. Some commenters suggest, for example, that the market is moving toward a dual market structure in which some customers want to negotiate with the pipelines, while others are still captive and need protection against the exercise of market power and undue discrimination. If that is the case, such a trend raises significant questions about the nature of the Commission's regulatory model. Designing a regulatory framework to accommodate such a trend, if that is the direction of the industry, would involve issues such as whether to permit negotiated terms and conditions of service, whether to allow market-based pricing for pipeline services (both long and short term), whether and how to support pipeline revenue requirements, and whether to change rate designs or the ratemaking process itself.

The Commission's current regulatory model is premised on the assumption that regulation of all pipeline services is necessary and that pipeline rates should be set so that the pipeline is given a reasonable opportunity to recover its prudently incurred costs. But this model would need to be changed to accommodate a two-track model of regulation in which non-captive customers would face market priced services and service flexibility and captive customers would be able to obtain service at regulated rates to protect against the exercise of market power.

A two-track regulatory model would require development of new regulatory methods developed for both the non-captive and captive customers. Customers opting for negotiated service should be subject to the risk of that choice and not be able to choose to negotiate only when it benefits them. New methods would be needed for determining just and reasonable rates and services to protect captive customers.

Captive customers should not be forced to pay for pipeline losses or additional risks in the unregulated portion of their businesses. Indeed, such an outcome may be difficult to square with the Commission's mandate under the NGA. If pipelines are given the upside potential inherent in lifting regulatory controls over prices and services, it is questionable whether they should have their revenues supported by a ratemaking regime that also guarantees the recovery of all ''prudently incurred'' costs.[78] Under a two-track regulatory model, therefore, the rates for captive customers would likely need to be established separate from the revenues from the pipelines' market-based services. One possibility would be to establish captive customer rates based on the proportion of pipeline capacity used by the captive and non-captive customers rather than as is done today on throughput and contract demand. It also might be necessary to change from rates based on a pipeline's individual cost-of-service to rates developed more on average industry costs. In addition, quality of service would need to factor into rate design so that pipelines would have an incentive to continue to improve the quality of service for captive customers.

The industry indeed may be headed in a direction that would make a two-track regulatory model appropriate. If so, these are the kinds of issues with which the Commission would need to grapple. It is not clear, however, whether this is in fact the industry's direction or whether a two-track regulatory model would be the best regulatory model to use. The market's development may reveal that other regulatory models are more desirable. It is possible that a sound regulatory approach could fall anywhere on a spectrum, from traditional utility regulation to a lighter-handed, highly market-oriented focus. Where Commission regulation should fall on that spectrum will depend on the developments in the market and the specific measures that would promote efficiency and protect captive customers at any moment in time. Simply because the industry is in transition today and these choices are therefore difficult, does not mean that the larger questions, of how to adapt the Commission's regulatory approach to changing conditions and how to move policy toward identifiable goals or models, are to be avoided.

The Commission, therefore, is still considering whether to move forward on various proposals for changes in its current regulatory framework, including the use of negotiated terms and conditions of service, changes to SFV rate design, whether to permit discount adjustments, whether to adopt rate reviews or refreshers, and whether to permit more market-based rates. But these issues are interrelated in many respects and cannot be considered separately. Rather, they must be considered within the overall context of the regulatory model that is most appropriate for the current conditions in the market and its likely future direction.

In order to better address these interrelated issues, the Commission has determined to institute a new process outside of this proceeding that will undertake a more systematic approach to evaluating the direction of future natural gas regulation than was possible in this proceeding. This process will be a flexible one and will involve Commission monitoring of the market, dialog between various industry segments, as well as participation by Commission staff in industry conferences or the establishment of new Commission docketed proceedings if needed.

Any such systematic approach to continuous improvement must do two things. First, it should not contribute greater uncertainty to commercial transactions. The Commission, therefore, needs to collaborate with the pipeline industry and its customers to advance market efficiency on a consensus basis where possible. Second, it should be based on current information. Therefore, the Commission needs to gather and analyze data on an ongoing basis to ensure that its decisions, even in individual cases, reflect the current state of the market. In order to address the comprehensive regulatory issues raised by the changing gas market, the Commission is directing its staff to develop the appropriate market monitoring capability and to begin engaging in a continuing dialog with the industry about potential regulatory improvements.

Through monitoring, the Commission staff will seek to evaluate the structure, conduct, and performance of the industry. For example, Commission staff is directed to look at issues relating to capacity availability during periods of peak and nonpeak demand, the concentration of capacity holdings

[78] Williams, for instance, recognizes that if pipelines are to be given the same potential as competitive firms to earn greater returns through market opportunities, they need to be subject to the risks of market failure just as are unregulated firms.

during peak and nonpeak periods, and the rates charged for service.

This analysis should seek to identify markets where light-handed regulation may be appropriate, as well as those markets in which competitive constraints still exist and the reasons for such constraints. This will allow an assessment of the need for negotiated terms and conditions of service. Such monitoring also will include examination of the industry's response to the changes in this rule to see the effects of these developments on the market. In this regard, the revised reporting requirements adopted in this rule will permit the Commission to examine how capacity prices respond to the lifting of the price ceiling on short-term capacity release transactions and how delivered prices and capacity prices track each other.

The staff should also monitor pipeline rates and operating and maintenance expenditures to see how well pipelines are performing both as an industry and individually compared to the rest of the industry. Such measures should provide a better measure of pipeline performance than relying on earnings or profitability based on historic investment in plant and equipment. In this regard, the staff should examine whether to change the annual reporting forms filed by pipelines to reduce the burden of supplying unnecessary information, while focusing the reports on data that will provide for a better evaluation of pipeline performance and efficiency. As part of this review, staff should consider whether performance based ratemaking should be pursued as a means to establish rates that appropriately reimburse pipelines for efficiency gains while passing on some of those gains to ratepayers through reduced rates.

In addition, the Commission will be looking at the development of the market in a number of areas, including residential unbundling, evolution of downstream gas markets, the development of eCommerce and auctions, mergers and changes in market structure, affiliate relationships and conduct, the effect of penalties on the market, and long-term investments.

But monitoring, by itself, is not sufficient to develop a full picture of the trends in the industry. It is important for all segments of the industry to engage in a dialog to consider how industry changes do or should affect Commission regulatory policy. Such a dialog will enable the Commission and state regulators to achieve a better understanding of industry trends and regulatory changes that better meet the changing character of the industry. Also, constructive dialog between all the industry segments such as was held under the auspices of the Natural Gas Council will be needed if the industry is to grow to the levels some project. This kind of industry dialog can occur independently of government regulators or it can begin initially with regularly scheduled Commission staff conferences with the industry and market participants. The frequency of these conferences and the nature of any reports or recommendations to the Commission can be determined by the participants themselves.

Some of the topics that need to be considered are:

- Whether regulatory changes would further facilitate upstream and downstream market centers, trading areas, and greater gas liquidity;
- Whether changes are needed in gas transportation policies to accommodate the increasing convergence of energy markets;
- Whether the Commission should seek to create greater standardization in terms and conditions of service across the grid;
- Whether regulatory policy with respect to pipeline affiliates and nonaffiliates, as well as asset managers and agents, should be revised to reflect the changing nature of the gas market;
- Whether auctions should be developed to coordinate the allocation and scheduling of capacity and the purchase and sale of gas;
- Whether rate design policies need to be changed to establish incentives for pipelines to enhance quality and efficiency and reward pipelines appropriately;
- Whether the Commission should fundamentally reform its current regulatory model, moving to a two track model or to performance based ratemaking; and
- Whether adjustments to reporting requirements beyond those adopted in this rule are needed to better reflect pipeline performance and efficiency.

Examination of these topics could show that changes in certain areas would be inconsistent with changes in other areas, while other changes would complement each other. Whether discussion of these topics ultimately leads to regulatory changes, and what those changes might be, will depend on the outcome of the dialog and developments in the market. The objective is to establish, as routine, an industry-wide dialog with the Commission, through its staff, to determine whether changes are needed in Commission policy and regulation to achieve the Commission's regulatory objectives.

To begin this process, staff will be scheduling technical conferences over the course of the year to discuss issues relating to: whether changes are needed to facilitate the development of upstream and downstream market centers and trading areas, including rate design changes; whether changes are needed to accommodate the convergence of electric and gas markets; whether the Commission should seek to create greater standardization of services and penalty provisions; and whether there need to be revisions to regulations relating to pipeline affiliates.

In the sections that follow, the Commission discusses the changes in its regulations and policies that are being adopted in this order.

II. Adjustments to Rate Policies to Improve Efficiency and Protect Against the Exercise of Market Power

The Commission's objective in designing rates is to establish a ratesetting framework that increases efficiency in the marketplace, while protecting against the potential exercise of market power. No regulated rate can perfectly emulate the prices found in a competitive marketplace nor protect perfectly against the exercise of market power. This is particularly true when the regulated firm is a natural monopoly [79] where the competitive price would be insufficient to permit the firm to recover its costs.[80] Thus, price regulation often permits some exercise of market power and involves tradeoffs between pricing efficiency and the regulatory control over market power. On balance, the Commission finds that the changes to regulation made in this rule—removing the rate ceiling from capacity release transactions, permitting pipelines to file for peak/off-peak and term differentiated rates, plus the improvements to scheduling, segmentation, penalties, and reporting requirements—will enhance marketplace efficiency and competition, protect captive customers, and set prices for short-term transactions that reflect demand during peak periods, while not

[79] *See* United Distribution Companies v. FERC, 88 F.3d 1105, 1122 & n.4 (D.C. Cir. 1996) (pipelines are treated as natural monopolies with enormous economies of scale producing declining average costs).

[80] The competitive price is the single price at which the marginal cost curve intersects the demand curve. Due to declining average costs at the point where demand intersects marginal cost (the competitive price), a natural monopoly charging what would be the competitive price for capacity would not cover its total investment. This creates difficult questions of devising an efficient price structure. *See* Comment of El Paso Energy, Appendix A, at 15 (no way to ensure revenue adequacy for pipelines without deviating in some way from short-run optimal prices); 1 A. Kahn, The Economics of Regulation, 130 (1970) (in decreasing cost cases, price at marginal cost insufficient to cover total costs); R. Posner, Economic Analysis of the Law, § 12.1, 251–254 (2d ed. 1977) (difficulty of devising an efficient price structure for natural monopolies).

jeopardizing protections against the exercise of market power.

In this Part, the Commission discusses the changes in rate policies for capacity release transactions as well as for pipeline services. The first section discusses generally the inefficiencies created by the current regulatory method and how the removal of the rate ceiling for short-term capacity release transactions will create a more efficient and competitive marketplace. That is followed by discussion of changes in policy with respect to pipeline service, i.e., peak/off-peak and term differential rates. Finally, the use of voluntary auctions as a means of pricing short-term services is discussed.

A. Removal of the Rate Ceiling for Short-Term Capacity Release Transactions

During peak demand periods, when capacity is at a premium, the need to provide shippers with the greatest number of potential options and the most efficient competitive marketplace is crucial. Shippers that most need capacity during periods of scarce supply need a market that can efficiently respond to their demands and provide the capacity they need. The Commission's regulatory framework also needs to protect captive customers and fairly apportion revenue responsibility between captive customers with limited alternatives and short-term shippers with greater options. At the same time, the Commission's regulatory mechanism needs to provide all shippers with as much regulatory protection against the exercise of market power as possible. The removal of the rate ceiling for capacity release transactions with continued cost-of-service regulation of pipeline services better satisfies these objectives than continuation of the current uniform maximum rate ceiling for capacity release transactions.

This section first examines the inefficiencies engendered by the current uniform maximum rate ceiling; second, it summarizes the options put forward in the NOPR and comments for dealing with these inefficiencies; third, it discusses how the removal of the rate ceiling for capacity release transactions provides for more efficient markets and protects captive customers, while maintaining cost-based regulation of pipeline services as a protection against market power; and fourth, it addresses the comments on the legal and policy basis for these regulatory changes.

1. Current Regulatory Framework

a. Description of the Current Regulatory Framework. Under section 4 of the NGA, rates are established by the pipeline filing for rate changes. The rates thus established continue in effect until the pipeline makes a subsequent rate case filing or the Commission takes action under section 5 of the NGA and determines that the existing rates are not just and reasonable.

The Commission currently develops a maximum annual transportation rate for each pipeline that, when applied to the pipeline's contract demand and throughput levels, will enable the pipeline to recover its annual cost-of-service revenue requirement. When the Commission sought to develop a maximum rate for monthly or daily interruptible or short-term firm transactions, it simply took the yearly maximum rate and divided by 12 or 365, respectively.

The principal reason for limiting pipeline rates to a level that would permit recovery of the pipeline's annual revenue requirement is to limit the ability of the pipelines to exercise market power, so that the pipeline does not charge excessive rates. Without rate regulation, pipelines would have the economic incentive to exercise market power by withholding capacity (including not building new capacity) in order to raise rates and earn greater revenue by creating scarcity. Because pipeline rates are regulated, however, there is little incentive for a pipeline to withhold capacity, because even if it creates scarcity, it cannot charge rates above those set by its cost-of-service. Since pipelines cannot increase revenues by withholding capacity, rate regulation has the added benefit of providing pipelines with a financial incentive to build new capacity when demand exists. The investment in new capacity increases a pipeline's revenue because the new investment increases the pipeline's rate base on which the pipeline earns a rate of return.[81] Thus, annual rate regulation protects against the pipeline's exercise of market power by limiting the incentive of a monopolist to withhold capacity in order to increase price as well as creates a positive incentive for a pipeline to add capacity when needed by the market.

The protection provided by rate regulation, however, is related solely to the pipeline's annual revenue requirement, not to the monthly or daily rate charged by the pipelines for capacity. The monthly or daily rate does not approximate the rates that would be charged in a competitive market, since such short-term rates do not seek to match price with the demands placed on the system. Indeed, the current regulatory model permits pipelines to exercise market power by selectively discounting their daily, monthly, and sometimes yearly rates (in effect price discriminating) at rates less than the maximum rate. Selective discounting helps the pipeline generate more annual revenue than it could receive by charging a single fixed price. The justification for permitting selective discounting is that the additional revenue benefits those shippers paying maximum cost-of-service rates by reducing, in the pipeline's rate case, the amount of the costs that otherwise would be recovered through the rates paid by those captive customers.[82]

In Order No. 636, the Commission applied the daily maximum rate to capacity release transactions. At that time, the Commission declined requests to remove the price cap for released capacity on the ground that the release market had not been shown to be sufficiently competitive.[83] When Order No. 636 was issued, most gas transactions occurred at the wellhead or upstream market centers.

Since Order No. 636, the gas market has continued to evolve with the development of spot markets in downstream markets at which customers without firm capacity or without sufficient capacity to cover their needs purchase delivered gas on a short-term basis. The price for these transactions reflects both the cost of gas and the value of transportation to the delivered market. Figure 5 shows the variances between weekly average gas prices in various upstream and downstream markets as well as the implicit price for transportation between each of the markets. The prices at each designated market represent the price of gas and the figures in parenthesis between markets represent the implicit value of transporting gas from the lower priced to the higher priced market. The prices in

[81] For instance, if a pipeline has a current rate base of $1 million and an approved overall rate of return of 10%, the pipeline earns $100,000. However, if demand justifies an expansion of the pipeline's system at a cost of $500,000, at the same rate of return, the pipeline would earn $150,000, thus creating a financial incentive to expand the pipeline's system whenever demand permits.

[82] Associated Gas Distributors v. FERC, 824 F.2d 981, 1010–1012 (D.C. Cir. 1987), *cert. denied,* 485 U.S. 1006 (1988); Comment of El Paso Energy, Appendix A (price discrimination below the existing maximum rate helps pipelines recover cost-of-service); 1 A. Kahn, The Economics of Regulation 131–33 (1970) (price discrimination one solution to problems of natural monopoly and declining costs).

[83] Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation Under part 284 and regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Order No. 636–A, (Regs. Preambles Jan. 1991–June 1992) FERC Stats. & Regs. ¶ 30,950, at 30,569 (1992).

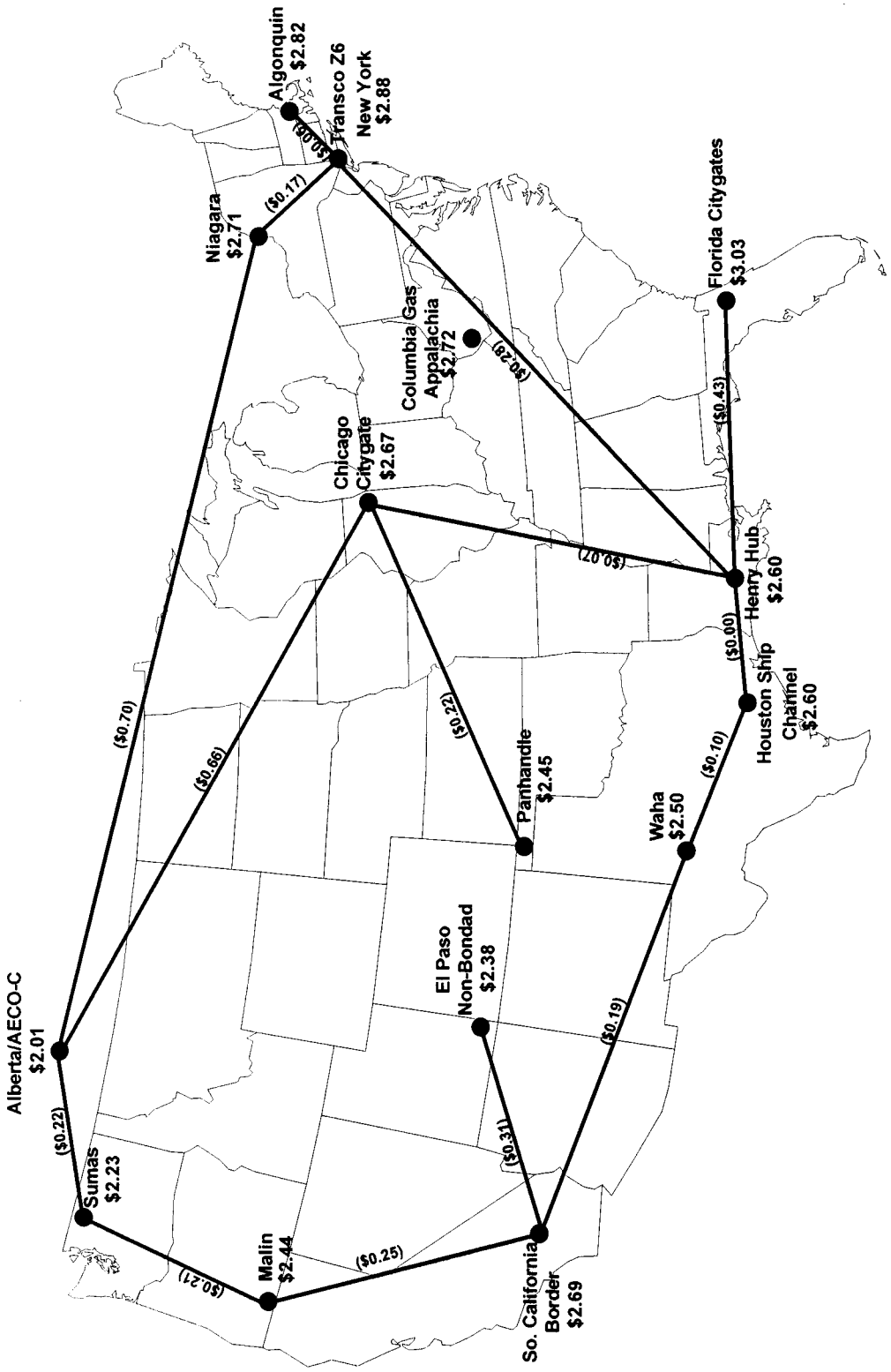
downstream markets, such as the Chicago Citygate, represent the price paid by shippers purchasing delivered gas at that market.[84] The implicit price for transportation represents the most any shipper purchasing delivered gas at a downstream market would pay to move gas from the lower priced market to the higher priced market. For instance, the implicit value of transportation between the Henry Hub and the Chicago Citygate market was $.07 in September 1999 (the difference between the $2.67 price for gas in Chicago and the $2.60 price at the Henry Hub).[85]

BILLING CODE 6717–01–P

[84] The prices in downstream markeets do not represent the price firm shippers would pay. A firm shipper could purchase gas at the Henry Hub price and would pay only the low usage charge to transport gas to Chicago.

[85] A shipper would not pay more than $.07 to transport gas purchased at $2.60 at the Henry Hub to the Chicago Citygate market, because the shipper could buy gas for $2.67 at the Chicago Citygate.

Figure 5 -- Regional Natural Gas Prices and Differentials in Transportation Values
September 1999



Source: *Gas Daily*, Weekly Weighted Average Prices. Data through September 30, 1999.
Note: Prices shown on map are in dollars per MMBtu.

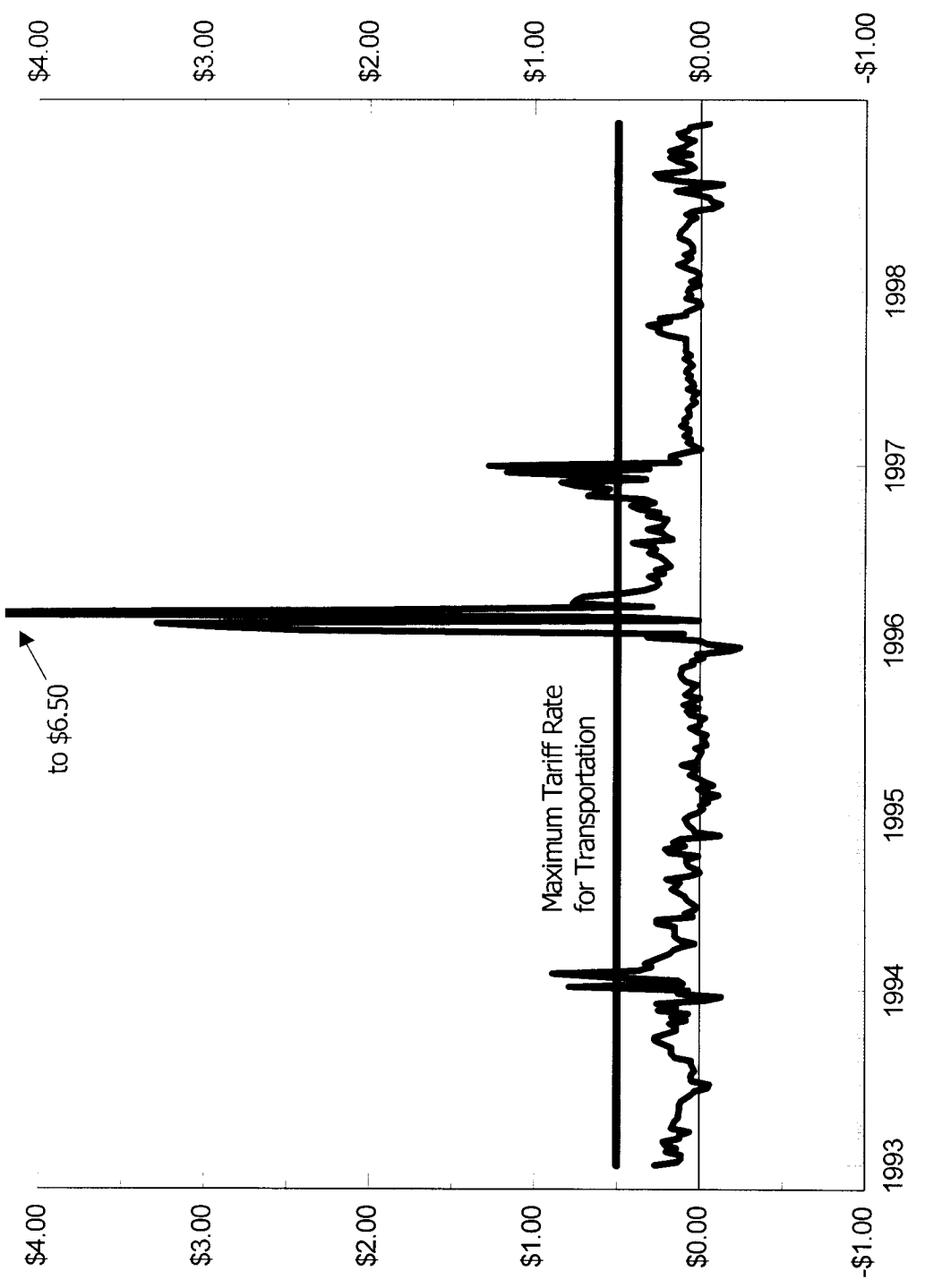
BILLING CODE 6717–01–C

The value of the transportation component of these bundled sales transactions results from the interaction of supply and demand forces and, unlike capacity release transactions, is not constrained by the maximum rate. Particularly during peak periods, shippers making bundled sales in the current market can avoid the maximum transportation rate and thereby obtain the market value for their capacity.

Figure 6 shows the increasing value of the transportation component during peak periods when demand for capacity is high. The transportation values in this chart represent the implicit amount that shippers that are unable to use firm capacity would pay for the transportation component of a bundled sales transaction. In the graph, for instance, the value of transportation rose to $6.50/MMBtu during the peak winter period of 1995–1996, to $1 during the winter of 1996–1997, and to less than $.50 during the winter of 1997–1998.

BILLING CODE 6717–01–P

Figure 6 -- Implicit Transportation Values



Sources: *Gas Daily,* Weekly Weighted Average Prices and PI Grid. Data through December 31, 1998.
Tariff rate is the IT rate from Natural Gas Pipeline.

BILLING CODE 6717–01–C

Figure 7 illustrates how the value of transportation can vary on a daily basis. This graph shows the price of gas in the New York market for January 2000 compared with the price of gas in the production area. The line entitled production area price plus maximum transportation rate reflects the price that would be paid by a shipper purchasing gas in the production area and transporting that gas to New York at the maximum interruptible transportation rate on the pipeline.[86] As the chart shows, as temperatures dropped in the Northeast during January,[87] the price of buying delivered gas in New York rose to $15/MMBtu. In contrast, before the weather turned colder, the price of delivered gas in New York essentially reflected the price of gas in the production area plus the maximum transportation rate to transport that gas to New York. The difference between the price in the New York market area and the production area price represents the implicit price for (or value of) transportation paid by those shippers buying delivered gas in New York.

BILLING CODE 6717–01–P

[86] Firm shippers would pay a lower rate because they would pay the production area price plus a usage charge of only $.0202 which is much lower than the maximum interruptible transportation rate of $.3147. *See* Transcontinental Gas Pipe Line Corporation FERC Gas Tariff, Third Revised Volume No. 1, Eighth Revised Sheet No. 35–A (firm usage charge zones 4–6) and Eighth Revised Sheet No. 42 (interruptible rate zones 4–6).

[87] The temperatures during this period changed from daily range in the low mid-thirties to low fifties to mid-thirties during the early part of the month to temperature ranges in the teens and low twenties during the later part of the month. The temperatures are reported at http://www.wunderground.com/US/NY/New York.html (historical data).

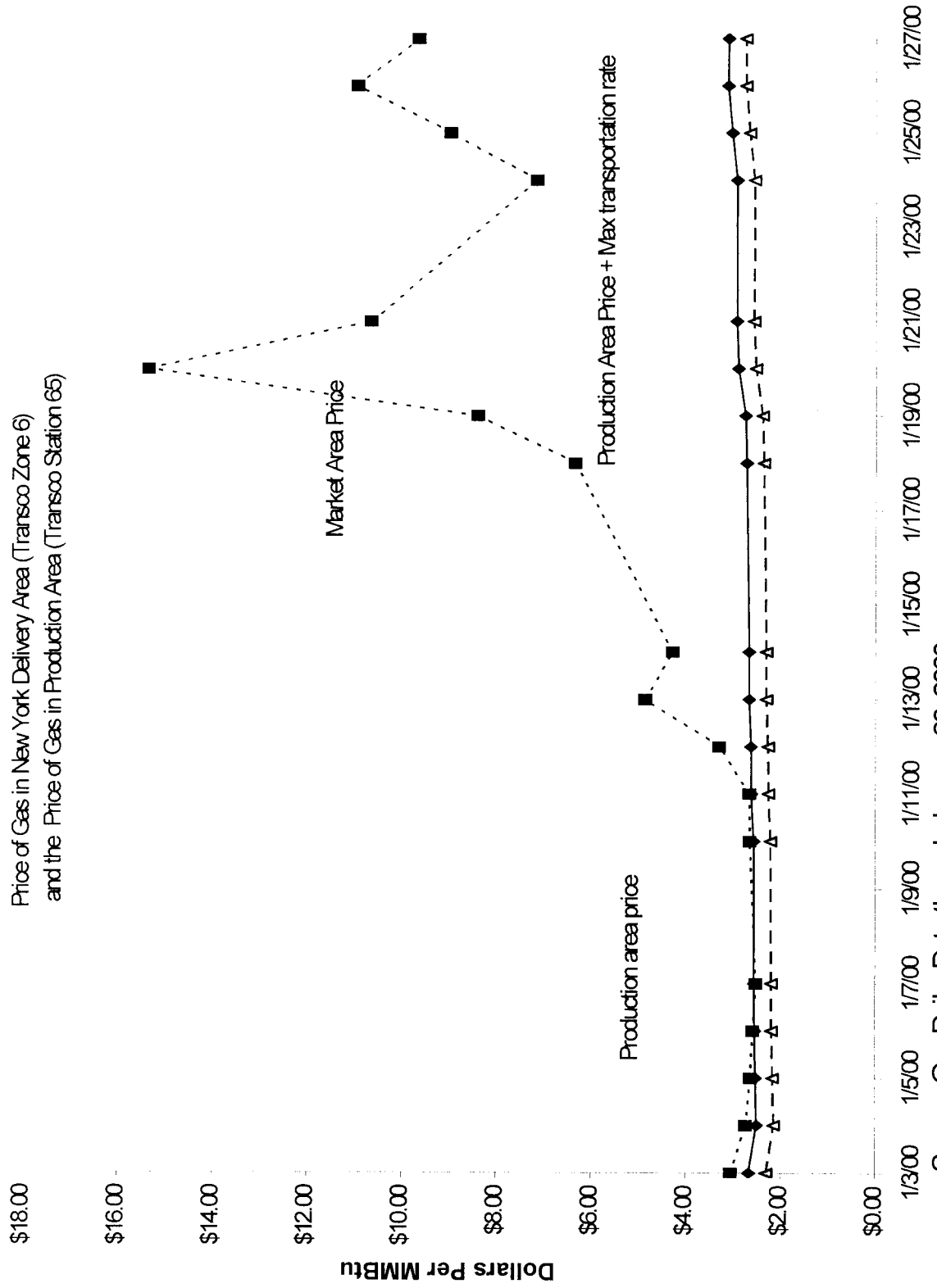


Figure 7 -- Price Differentials During January 2000

BILLING CODE 6717–01–C

Market Area Price—The market area price is the price paid by short-term customers (those without sufficient firm capacity for their needs) to obtain gas in the New York market. Shippers using firm capacity would pay the production area price plus the 2 cent usage charge to transport gas to New York.

Production Area Price—This is the price of gas purchased at the production area.

Production Area + Maximum Transportation rate—This is the price a shipper would pay if it could buy gas in the production area and ship it to New York at the pipeline's maximum IT rate.

Value of Transportation—The value of transportation is the area between the market area price and the production area price. During much of January, the value of transportation is shown to be about equal to the maximum IT rate. The value exceeds that rate only on days of peak demand.

These graphs show that the value of transportation, particularly during peak periods, is not related to the maximum tariff rates for transportation. As one commentator has stated, ''gas commodity markets now determine the economic value of pipeline transportation services in many parts of the country. Thus, even as FERC has sought to isolate pipeline services from commodity sales, it is within the commodity markets that one can see revealed the true price for gas transportation.'' [88] Because the Commission's current regulatory model permits discounting below the maximum rate, the Commission's regulation does not inhibit pipelines and shippers from adjusting transportation rates to the off-peak demand in the market. However, during peak periods, the Commission's maximum rate cap does not allow unbundled transportation prices to equilibrate with demand.

The fact that the value of transportation in the short-term bundled sales market exceeds the daily or monthly maximum rate now permitted in pipeline tariffs is not surprising, nor is it evidence that market power is being exercised. The daily or monthly rates (derived by simple division of the annual rate) were never intended to replicate prices that demand conditions would produce.[89] Particularly during peak periods, the value of transportation will rise because the transportation quantity demanded begins to exceed the quantity of capacity supplied. As a result, a higher price is needed to efficiently allocate transportation to those who most need to obtain it and are willing to pay the highest price for the bundled commodity. Such price increases would occur in any competitive market when supply becomes constrained relative to demand. This situation must be distinguished from the exercise of market power when a pipeline has power to raise prices by withholding capacity, creating greater scarcity than would occur in a competitive market. Indeed, all commenters recognize that the bundled sales market operates independently of the regulated rate governing straight-forward (unbundled) capacity transactions, but none suggest that the Commission should attempt to impose more stringent regulation on the bundled sales market.

b. The Price Constraint for Capacity Release Transactions Reduces Efficiency. Applying a ceiling to the rate for capacity release transactions does not achieve the Commission's regulatory objectives. It reduces shippers' options, decreases the efficient operation of the market, and does not adequately protect captive customers.

Particularly during peak constraint periods on pipelines, preventing transportation prices from exceeding the pipeline's maximum rate can reduce the options of shippers purchasing in the short-term market. With the maximum rate cap, a shipper, without a contract sufficient to cover its requirements on a peak day, that is seeking to acquire additional capacity has limited options. It can first try to obtain pipeline interruptible capacity at the maximum rate cap, if the capacity is available. Even if pipeline capacity is available, the shipper may be unable to obtain that capacity despite placing the highest value on the capacity. Because the pipeline cannot exceed the maximum rate, the pipeline must allocate its available capacity either on a *pro rata* basis or on the basis of a queue based on contract execution date. In either case, a shipper may not obtain the capacity or the amount of capacity it needs regardless of whether it places the highest value on the capacity.

The shipper is therefore left with only two available options: to purchase gas in a bundled transaction in the downstream market at a price reflecting the market-determined value of transportation, or to simply take the gas out of the pipeline and pay the pipeline's scheduling or overrun penalties. The shipper generally will not be able to obtain released capacity at the capped price, because holders of that capacity are unlikely to release capacity at a price less than the amount they can receive by making a bundled sales transaction. Thus, during a peak day, capping the price of released capacity does not effectively limit the price a purchaser has to pay to obtain transportation service. It only serves to limit the purchasing shipper's capacity options.

But the shipper's other options—using a bundled sales transaction or incurring overrun and scheduling penalties—may not be the most efficient choice. The purchaser may prefer not to use the bundled gas sales market when it has a natural gas contract at a less expensive price than the price of gas included in the bundled transaction and, as a result, would prefer to use its own gas. To use its own gas supplies to meet its peak day needs, the shipper would have to pay substantial penalties for overrunning its transportation contract. Shippers accumulating overruns also compromise the operational integrity of the pipeline's system, leading to a degradation of service for all shippers, including the possibility of service curtailment through operational flow orders, during peak periods when shippers most need the system to run efficiently.

Moreover, even if the maximum rate cap were more effective in limiting the prices at which firm capacity holders could resell capacity (for instance, LDCs who are unable to make bundled sales),[90] it would provide little benefit to shippers purchasing capacity during peak periods. The maximum rate cap

[88] M. Barcella, How Commodity Markets Drive Gas Pipeline Values, Public Utilities Fortnightly, Feb. 1, 1998, 24–25; *See* Henning & Sloan, Analysis of Short-Term Natural Gas Markets (Energy and Environmental Analysis, Inc., Nov. 1998) (showing how basis differentials between prices in different pipeline corridors correlate with value of capacity release transactions); B. Schlesinger, Natural Gas Industry Trends: Commoditizing Everything in Sight, *http://www.nymex.com* (November 17, 1999) (basis competition establishes the value of transportation capacity); R. O'Neill, C. Whitmore, M. Veloso, The Governance of Energy Displacement Network Oligopolies, Discussion Paper 96–08, at 41 Federal Energy Regulatory Commission, Office of Economic Policy, revised May 1997) (copy available from the Federal Energy Regulatory Commission) (the option to buy transmission rights is worth the difference in spot prices between two geographic areas, as opposed to a rate relating to embedded costs).

[89] The rationale for the commission's method of regulating the rates of pipeline transactions does not apply to capacity release transactions. As discussed earlier, by regulating pipelines' rates so they cannot recover more than their annual revenue requirement, the Commission seeks to ensure that the pipelines do not have an incentive to withhold capacity to create excess returns. But this justification for rate regulation has little applicability to capacity release transactions, since releasing shippers are not in the position to withhold long-term capacity by failing to add capacity when necessary.

[90] *See* Comment of Arkansas PSC (price ceiling is effective, if at all, only on LDC capacity releases which tend to be unbundled sales of capacity).

reduces the efficiency of the market by preventing the efficient allocation of capacity to those who most need it and are willing to pay for it. During a time of capacity constraint, there may not be sufficient capacity to serve all shippers seeking capacity at the maximum rate. It is therefore necessary to allocate or ration that capacity among the shippers desiring it. The Commission's regulations, in fact, require that one of the objectives in setting rates is to ration capacity during peak periods.[91] The appropriate method of rationing scarce capacity is to allocate the capacity to those who place the greatest value on obtaining that capacity. Maximum rate regulation prevents such allocation during constrained periods, resulting in shippers who place a lower value on capacity retaining their capacity, rather than selling the capacity to shippers placing a greater value on obtaining the capacity.

Restrictions on capacity release transactions limit the development of an efficient and viable capacity market and can skew customer capacity choices. If a customer could rely on an effective short-term market to obtain additional capacity during peak periods, it might decide that it was not necessary to reserve sufficient long-term firm transportation to cover all of its peak day needs. It could be more economic for it to purchase short-term daily capacity, even at a high price, when it needed additional capacity, as opposed to paying for long-term capacity to meet peak needs. However, if the short-term market is less reliable, and, as a result, the customer valuing the capacity the most cannot acquire as much as it needs, the customer will be more reluctant to relinquish long-term capacity and rely upon the short-term market for its peak needs.[92]

Indeed, the use of the pipeline's maximum rate as the cap for capacity release transactions, can reduce the amount of released capacity available during peak periods, precisely the period when capacity is needed most. As a result of the maximum rate, firm capacity holders may not find it sufficiently profitable to make their capacity available for release. For instance, a dual fuel industrial customer might determine that it would be more economic not to use gas, and to substitute a different fuel, if it could obtain a sufficiently high price for its released capacity. Similarly, an LDC might have a peak shaving capability (storage or liquefied natural gas (LNG)) that costs more to produce and deliver gas than purchasing the gas in upstream markets and using its transportation capacity to transport that gas to its citygate. The LDC might be willing to release its transportation capacity and use the peak shaving device instead if it could receive a price above the maximum rate for its transportation capacity so that the amount it receives for the release of its transportation capacity covers the costs of the peak shaving device.[93] By using its peak shaving device instead of transportation, the shipper would be expanding the amount of released capacity available during a peak period. But if the price cap prevents the shipper from obtaining a price higher than the cost of the peak shaving device, and the shipper cannot sell the gas on a delivered basis, the shipper will use its transportation capacity, thus depriving other shippers (without peak shaving) of the opportunity to acquire needed transportation capacity. Removal of the price cap, therefore, could make additional released capacity available during peak periods to those most needing that capacity. As more capacity enters the marketplace during peak periods, the consequence would be a lowering of transportation prices, which would be of significant benefit to all shippers needing capacity when the pipeline system is most constrained.[94]

Capping capacity release transactions during peak periods at the current maximum rate system also harms captive customers holding long-term contracts on the pipeline. These customers have to pay maximum rates for both peak and off-peak periods. During off-peak periods, when prices are generally low, they cannot recover the cost of their investment. But, when demand increases the value of capacity, captive customers cannot reap the benefits of the higher value through a straight-forward release of capacity. Instead, their only alternative in selling capacity is to seek to make bundled sales transactions, which may be more difficult for smaller customers and raise transactions costs for both parties.

2. Alternatives to the Price Cap

In the NOPR, the Commission proposed one alternative to respond to the inefficiencies created by price caps, as well as requesting comments on other approaches. The Commission proposed to eliminate the maximum rate from both short-term (less than one year) capacity release and pipeline transactions, together with a number of proposals to increase competition in the short-term market and limit the exercise of market power. Chief among the proposals was the requirement that all short-term capacity would be sold through an auction process in which daily pipeline capacity would be sold without a reserve (or minimum) price. The purpose of the no-reserve price proposal was to protect against the exercise of market power in the short-term market by ensuring that pipelines could not withhold capacity. In addition, the Commission solicited comment on other potential approaches, such as the use of seasonal rates or the application of market power analysis similar to that used in the Alternative Rate Design Policy Statement,[95] to determine whether markets are sufficiently competitive to remove regulatory rate ceilings for all services.

The comments, for the most part, do not challenge the Commission's analysis of the inefficiencies created by maximum rate regulation in the short-term market, but they take very different positions as to the possible solution. Some commenters, principally pipelines, support removal of the price cap for all services in the short-term market, contending removal would improve market efficiency, mitigate the adverse effects of the current cost-based rate designs, increase competition, and remove a major obstacle to contracting

[91] 18 CFR 284.7(b)(1), redesignated § 284.10(b)(1).

[92] The comments recognize that the Commission's current regulatory policy can result in market distortions and inefficiencies. *See* Comments of Amoco I, at 17–18 (''maximum rates can result in inefficiencies); INGAA, at 25 (graph of transportation value shows that the market value of capacity is less than its allocated cost during off-peak periods and must be discounted); AGA I, at 13 (off-peak customers receive transportation at discounted rates which cannot be recouped during peak periods); El Paso Energy, Appendix A (allocative inefficiencies exist when prices exceed maximum rate).

[93] Suppose the costs to the LDC of using the peak shaving device were $6.00/MMBtu and the costs of buying gas in the upstream market was $4.00/MMBtu with a $.10/MMBtu usage charge (under its firm contract) for transportation, If the LDC could resell its transportation capacity for more than $1.90/MMBtu (the difference between using its peak shaving device and its transportation service), it would release that capacity and use its peak shaving instead. If the release were subject to a maximum cap of less that $1.90, however, the LDC would choose not to peak shave and the capacity would not be released to others.

[94] *See* Comments of Amoco I, at 17–18 (''incremental costs due to market inefficiencies (which may be described as transaction costs) may arise during periods when the demand for capacity exceeds its supply, resulting in delivered gas prices in downstream markets that are higher than they would be in a more allocatively efficient, i.e., liquid and transparent market'').

[95] Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of Natural Gas Pipelines, 61 FR 4633 (Feb. 7, 1996), FERC ¶ 61,076 (1996).

for long-term capacity.[96] Many of the comments, however, contend that the Commission should not remove rate regulation over pipelines, because pipelines continue to hold market power. They maintain that rate caps can be removed only upon a showing that market power cannot be exercised.[97] Several commenters, particularly LDCs, support removal of price caps for short-term capacity release transactions, but not for pipeline services.[98]

Some commenters support the use of auctions as a method for limiting the exercise of market power and providing a non-discriminatory method for allocating capacity, although they recognize that there may be a need to implement some mechanism to protect pipelines against cost under-recovery.[99] By far the vast majority of commenters, however, oppose the use of mandatory auctions at this time, principally out of a concern that auctions would be complex and expensive, would require more personnel to monitor the auctions on multiple pipelines, would not work as efficiently as the use of pre-arranged deals for capacity exchanges, would not permit coordination between gas and capacity purchases, could interfere with state unbundling plans by inhibiting prearranged releases, and would frustrate asset management arrangements.[100] INGAA and AGA raise concerns about the impact of mandatory no-reserve price auctions on pipelines' or firm shippers' abilities to recover their investments. Several commenters suggest the use of voluntary rather than mandatory auctions as a way to gain more experience with auctions.[101] Others suggest that while auctions may be a viable method of allocating capacity, a mandatory auction may not be the most efficient method of allocating capacity and may inhibit the development of other equally efficient approaches, in particular pre-arranged deals. They suggest that the Commission should not mandate the use of auctions, but instead consider a variety of options, including auctions that would prevent withholding of capacity.[102]

In place of mandatory auctions, INGAA, along with most pipelines, and AGA, and most of the LDCs, propose an alternative to mandatory auctions under which the Commission would remove maximum rate caps from capacity release transactions, but not pipeline transactions. INGAA and AGA argue that such an approach would eliminate inefficiencies in the marketplace while preserving pipeline capacity as a ''just and reasonable'' safe harbor or recourse service. INGAA also proposes that pipelines be permitted to institute seasonal rates to better reflect peak and off-peak demands faced by many pipelines. INGAA maintains that permitting pipelines to institute seasonal rates where demand differs throughout the year would help to ameliorate the inequities of the current ratemaking structure in which shippers purchasing short-term capacity are able to shift costs to those customers purchasing capacity on a long-term basis at maximum rates. INGAA further proposes that seasonal rates be cost-based in the sense that they be limited by the pipeline's revenue requirement. INGAA suggests a number of ways in which seasonal rates could be designed, for instance, using seasonal pipeline utilization, and others suggest other approaches.[103]

3. The Regulatory Changes Implemented in this Rule

In this rule, the Commission is revising its policies on rate regulation to improve marketplace efficiency by adopting the two-part approach suggested by commenters: removing the rate ceiling for capacity release transactions and clarifying its policy on seasonal rates to permit pipelines to file for differing peak and off-peak rates based on different demand conditions on those pipelines. The Commission is waiving the rate ceiling in its capacity release regulations[104] until September 30, 2002 for short-term releases of capacity of less than one year beginning upon the effective date of this rule. The Commission, however, is continuing its current regulations regarding the posting and bidding for capacity release transactions of greater than one month.

While the removal of the price cap is justified based on the record in this rulemaking, the Commission recognizes that this is a significant regulatory change that should be subject to ongoing review by the Commission and the industry. No matter how good the data suggesting that a regulatory change should be made, there is no substitute for reviewing the actual results of a regulatory action. The two year waiver will provide an opportunity for such a review after sufficient information is obtained to validly assess the results. Due to the variation between years in winter temperatures, the waiver will provide the Commission and the industry with two winter's worth of data with which to examine the effects of this policy change and determine whether changes or modifications may be needed prior to the expiration of the waiver.

At this point, the Commission is retaining the price cap for capacity release transactions over one year because this rule is focused on revising regulations that interfere with the efficient allocation of capacity during the short-term periods when demand pushes the value of transportation above the current maximum rate. There has been no showing made that for capacity release transactions of one year or more the value of capacity exceeds the uniform annual rate such that maximum rates impede efficiency. This policy too may be reassessed based on the results during the two year waiver period.

a. Consistency with the Commission's Regulatory Objectives. The removal of the price cap from short-term capacity release transactions better satisfies the Commission's regulatory objectives than the current system. Removal of the rate cap will expand shippers' options, create a more efficient marketplace, increase market transparency, and better protect captive customers, without changing the current regulatory environment.

[96] Comments of Consolidated Natural Gas I, IMD, Koch I, MichCon, NYMEX, Nicor, PG&E, Mercatus, Sempra Energy, TransCanada, and Williams I.

[97] Comments of Arkansas Gas Consumers, Market Hub Partners, NWIGU, Process Gas Consumers, et al., and Southern Company Services, Amoco I, IPAA, Indicated Shippers, NGSA, PanCanadian, PSC of New York I, and CPUC.

[98] Comments of AGA I, Arkansas PSC, ConEd, Enron Pipelines, Illinois Commerce Commission, INGAA, NARUC, NASUCA, Nisource, Pennsylvania/Ohio Consumer Advocates, Pennsylvania PUC, Philadelphia Gas Works, Piedmont/UGI, PSC of Wisconsin I, PUC of Ohio, and Washington Gas Light.

[99] Comments of Altra Amoco I, Florida DMS, Sithe, Southern Company Energy Marketing, and Southern Company Services. While not directly supporting removal of the maximum rate cap, Indicated Shippers and NGSA maintain that if the price cap is lifted, auctions need to be required.

[100] Comments of AEC Marketing, Allenergy Marketing, et al., AGA I, CMS Panhandle, Coastal I, Colorado Springs I, Columbia LDCs, Consolidated Natural Gas I, Cove Point, Duke Energy Trading, El Paso, Enron Pipelines, INGAA, KN, Koch I, Louisville, Mississippi Valley, et al., National Fuel Gas Supply, Nisource, NWIGU, PanCanadian, Pennsylvania PUC, Peoples Energy I, Philadelphia Gas Works, Piedmont/UGI, Process Gas Consumers, et al., Reliant, Sempra Energy, TETCO/Algonquin, TransCanada, Williston Basin, Williams I, and UGI. Other commenters, while not specifically opposing auctions, raise similar concerns about the use of auctions. APGA, Enron Capital & Trade, Entergy, Fertilizer Institute, Foothills, Illinois Commerce Commission, IMD, Market Hub Partners, NARUC, Nicor, PG&E, PNGTS, Proliance, PSC of Kentucky, PSC of New York I, PSC of Wisconsin I, CPUC, Mercatus, Shell, and Southwest Gas.

[101] Comments of Colorado Springs I, Enron Capital & Trade, Enron Pipelines, INGAA, K N, National Fuel Gas Supply, Sempra Energy, and TransCanada.

[102] Comments of Mercatus; CAPP/ADOE.

[103] Comments of Enron Pipelines, Amoco I.

[104] The waiver is contained in redesignated § 284.8(i). The existing capacity release regulations are not being revised.

Removal of the rate ceiling from short-term capacity release transactions will remove an impediment to the development of an efficient capacity market by giving purchasers an additional option for obtaining capacity during peak periods. Instead of having only the choices of purchasing a bundled sale or incurring a contract overrun, a customer needing gas can directly obtain the capacity it needs from a firm capacity holder. Removal of the rate ceiling for capacity release transactions also will enhance efficiency by ensuring that capacity is properly allocated to those placing the most value on obtaining capacity during peak periods.

By fostering a more efficient short-term market, removal of the rate ceiling on short-term capacity release transactions will help create a more reliable short-term capacity market where shippers who need short-term capacity will know they can obtain as much capacity as they need by paying the market price. The development of a more reliable short-term capacity market, in turn, will enable shippers to make better informed choices about whether to purchase long or short-term capacity depending on their circumstances. Some shippers may prefer the price stability they obtain from a long-term firm contract. On the other hand, some shippers may opt not to contract for long-term capacity if they are assured of a reliable short-term capacity market in which they could obtain transportation by offering to pay the market price for the capacity.[105] Even demand inelastic customers in Chicago might not want to subscribe to sufficient firm capacity to meet the worst-case scenario that occurred in 1996 [106] if an effective spot market exists in which they can obtain capacity when needed or hedge against the financial risk of buying in the spot market.

The more reliable the market the less shippers and regulators may be pushed toward requiring long-term capacity contracts to ensure reliability. For example, with an effective market for transportation capacity, there could be less need for states contemplating retail unbundling to require marketers or LDCs, as suppliers of last resort, to hold firm capacity on pipelines to guarantee transportation, just as long-term contracts are no longer necessary to guarantee access to the gas commodity.

Removal of the rate cap for short-term capacity release transactions also will have an added benefit of increasing market transparency. In today's market, there is little information on the price of transportation capacity during peak periods, because, due to the price caps, transactions move to the bundled sales market. Permitting transportation capacity to trade freely during peak periods will increase the number of transactions moving from the bundled sales market to the transportation market, which, given the changes in reporting requirements adopted in this rule, will increase pricing information during peak periods, when such information is most critical to the marketplace.

Removal of the rate ceiling will have limited effect on the effective prices paid by customers using short-term transportation capacity. In today's market, when the value of transportation exceeds the maximum rate, firm capacity holders have an incentive not to release capacity, but to bundle that capacity with gas so that they can obtain the full market value of the transportation capacity by selling gas in the delivery market. Thus, removal of the rate ceiling should not significantly raise transportation prices, but will instead provide shippers looking for capacity with the alternative of buying transportation capacity directly rather than obtaining that capacity indirectly through a bundled sale.

Moreover, even if some replacement shippers do end up paying higher prices for capacity during peak periods than they did with the regulated rate in effect, it is appropriate for shippers using the system only during peak periods to pay higher prices reflecting the greater demand on the system. Short-term shippers currently receive the benefit of paying reduced capacity release prices during off-peak periods, but face a cap on the market price during peak periods. Removal of the rate ceiling on capacity release prices will ensure that those shippers which receive the benefit of lower market prices during off-peak periods face the higher market prices during peak periods. Removing the price ceiling for released capacity also will benefit captive customers by eliminating the regulatory bias built into the current rate structure. Long-term shippers pay the same rate for capacity during both peak and off-peak periods. During off-peak periods, they can recover only a small portion of their capacity cost through capacity release, because the market value for released capacity is generally quite low due to the reduced demand for capacity and the increased availability of released capacity. But during peak periods, the price cap limits long-term captive customers (who cannot make bundled sales) from receiving the full market value of their capacity. Long-term shippers pay for the largest proportion of the pipeline's fixed costs through their annual reservation charges, and permitting them to receive more revenue from capacity release transactions during peak periods will help them defray those costs.

b. Protections Against the Exercise of Market Power. While removal of the rate cap for short-term capacity releases will add an additional capacity option, such removal does not significantly reduce the protection of shippers buying short-term transportation. First, the capacity release rate cap is largely ineffective in protecting short-term capacity purchasers in today's market since shippers can make bundled sales to evade the cap. Thus, removal of the rate cap will not provide releasing shippers with significant additional pricing freedom. Instead, it will improve the market for buyers by giving them an additional capacity option from which to choose.

Second, the fact that prices for transportation rise during peak periods is not evidence of the exercise of market power, but may be the appropriate market response to an increase in demand for capacity. During peak periods when there is insufficient capacity to satisfy all the demand for short-term capacity, an increase in market price would be the competitive response to a situation in which the quantity of transportation demanded increases relative to the quantity that can be supplied.

The rule also continues to provide protections against the possible exercise of market power by releasing shippers. Market power can be exercised in two ways: through withholding capacity to raise price or through price discrimination.

Firm shippers cannot successfully withhold capacity from the market to raise price above the existing maximum just and reasonable rate because, if the firm shippers do not use their capacity, the pipeline has the incentive to sell the capacity as interruptible service. Moreover, the Commission is continuing to protect against the possibility that, in an oligopolistic market structure, the pipeline and the firm shippers will have a mutual interest in withholding capacity to raise

[105] A low load factor shipper (one with greater demand during peak than off-peak) might find that paying reservation rates for a full year to hold long-term capacity sufficient to meet its peak needs is less economic than purchasing capacity only for the short time when it needs the capacity even if the rate for that short-term capacity is much higher than the yearly rate.

[106] *See* Figure 6, *supra* (showing the spike in gas price to $6.50/MMBtu during the winter of 1996).

price because the Commission is continuing cost-based regulation of pipeline transportation transactions. The pipelines will be required to sell both short-term and long-term capacity at just and reasonable cost-based rates. In the short-term, a releasing shipper's attempt to withhold capacity in order to raise price above maximum rates will be undermined because the pipeline will be required to sell that capacity as interruptible capacity to a shipper willing to pay the maximum rate. Shippers also have the option of purchasing long-term firm capacity from the pipelines at just and reasonable rates.

In addition, the ability of pipelines to build additional capacity will check the potential exercise of market power by releasing shippers. Regardless of the value of scarce capacity, pipelines' rates are capped. Thus, if a pipeline observes that the market price for capacity exceeds the pipeline's maximum rate in the short-term market, and the market prices are sufficient to cover the cost of new pipeline capacity, the pipeline can capture that revenue only by building additional capacity to serve the demand. In many cases, capacity can be added relatively quickly simply by adding compression. Thus, firm shippers have little incentive to exercise market power by withholding capacity given the pipeline's ability and incentive to dissipate that market power through new construction.

The cost-based regulation of pipeline services also limits firm shippers' ability to price discriminate, since a purchaser who is unwilling to pay the price quoted by the releasing shipper can obtain pipeline capacity at cost-based rates. Firm shippers also would have difficulty engaging in price discrimination, because, given the ease with which capacity can be transferred between shippers, a releasing shipper would have trouble preventing arbitrage—a shipper which benefits from the lower price buying more capacity than it needs and reselling the excess to less-favored shippers.[107]

Besides the availability of pipeline capacity, the competitive pressures fostered by competition from released capacity will limit the potential exercise of market power. Many of the commenters argue that due to the competition for released capacity, release rates are low and firm shippers are unable to come close to recouping their investment in pipeline capacity.[108] CNG cites to a study commissioned by AGA and INGAA analyzing 17 major pipeline corridors, which showed that the average value of capacity release transactions varied from 31% to 76% of the maximum rate tariff rate applicable to the corridor.[109]

Since Order No. 636, capacity release transactions have grown significantly, averaging 20 trillion Btu/day, for a total of 7.4 quadrillion Btu for the 12 month period ending March, 1997.[110] Competition from numerous shippers releasing capacity, therefore, will also lessen the ability of firm shippers to exercise market power. The Commission's policy requiring pipelines to provide flexible receipt and delivery points rights has enhanced competition. Due to the ability to use alternate receipt and delivery points, capacity purchasers are not limited to purchasing capacity only from shippers holding the primary point rights the purchaser needs. A purchaser can obtain capacity from any of a number of shippers and use the flexibility to use alternate points to access the receipt and delivery points it needs. In this rule, the Commission is improving various aspects of the capacity release mechanism, by speeding up the nomination process and requiring pipelines to permit shippers to segment capacity, which will further enhance competition between releasing shippers. Thus, capacity available from other shippers together with the availability of pipeline capacity will limit the ability of releasing shippers to exercise market power.

As additional protection against the potential exercise of market power, the Commission in this rule is improving its reporting requirements to permit better monitoring of the marketplace and has recently instituted a revamped complaint process.[111] The improved reporting requirements will improve competition in the market by expanding shippers' information about potential capacity alternatives. Difficulty in obtaining information can reduce competition because buyers may not be aware of potential alternatives and cannot compare prices between those alternatives. The reporting requirements will expand shippers' knowledge of alternative capacity offerings by providing more information about the capacity available from the pipeline as well as those shippers holding capacity that is potentially available for release. The reporting requirements further will provide shippers with more accurate information about the value of capacity over particular pipeline corridors so that shippers can make more informed choices about the prices of capacity they may wish to purchase.

In addition to providing better information about competitive alternatives that will enhance competition, the improved reporting requirements will better enable shippers and the Commission to monitor the market. Thus, both shippers and the Commission will be better able to identify situations in which market power is being abused, and the Commission will have more information to use in tailoring remedies in individual cases as the need arises.

Thus, the removal of rate ceilings will improve shipper options, create a more efficient marketplace, and make the Commission's ratemaking policies more responsive to market forces. Reasonable protection against the exercise of market power by releasing shippers will be provided by continuing cost-of-service regulation of the pipelines and competition in the release market, together with enhanced reporting requirements that will improve information about capacity alternatives and shippers' ability to monitor the market for market power abuses.

4. Legal Basis for Removing the Rate Ceiling for Short-Term Capacity Release Transactions

Several commenters maintain that, under its statutory mandate, the Commission cannot legally rely upon market-based rates without making a finding that market power cannot be exercised.[112] APGA, for example, contends that the existence of the bundled sales market should not be used as justification for removing rate regulation in the capacity market. Process Gas Consumers (Process Gas Consumers I) and Indicated Shippers (Indicated Shippers Reply) contend the Commission cannot remove price caps for released capacity even if ceilings remain on pipeline capacity.

[107] *See* Comment of Mercatus (price discrimination cannot be maintained where releasing shipper cannot limit arbitrage).

[108] Comments of AGA I, Arkansas PSC, Consolidated Edison, Enron Pipelines, Illinois Commerce Commission, INGAA, NARUC, NASUCA, Nisource, Pennsylvania/Ohio Consumer Advocates, Pennsylvania PUC, Philadelphia Gas Works, Piedmont/UGI, PSC of Wisconsin, PUC of Ohio, and Washington Gas Light.

[109] The study cited is Henning & Sloan, Analysis of Short-Term Natural Gas Markets (Energy and Environmental Analysis, Inc., November 1998).

[110] Department of Energy/Energy Information Administration, Pub. No. DOE/EIA–0618(98), Deliverability on the Interstate Natural Gas Pipeline System 83 (1998).

[111] 18 CFR 385.206 (adopted by Complaint Procedures, Order No. 602, 64 FR 17087 (Apr. 8, 1999), III FERC Stats. & Regs. Regulations Preambles ¶ 31,071 (Mar. 31, 1999).

[112] Comments of Process Gas Consumers, Indicated Shippers, NGSA, APGA, IPAA.

The Commission concludes that the removal of the price cap for capacity release transactions, together with continued regulation of pipeline rates, comports with its statutory responsibilities. The Commission has the statutory obligation under the NGA to ensure that pipeline rates and services are just and reasonable. Establishing just and reasonable rates requires the Commission to protect consumers of natural gas from the exercise of monopoly power by pipelines,[113] while, at the same time, ensuring that those rates improve the competitive structure of the natural gas industry to maximize the benefits of wellhead decontrol.'' [114] In seeking to achieve these goals, the courts have recognized that the Commission is not bound to use any particular pricing formula in determining just and reasonable rates [115] and that cost-based regulation can be relaxed as long as the overall ''regulatory scheme'' ensures that rates are within a zone of reasonableness.[116] The Commission is permitted to move to lighter-handed regulation as long as it ensures that the goals and purposes of the statute will still be accomplished.[117] The courts have permitted the Commission to institute flexible pricing to improve market efficiency so long as the overall regulatory scheme protects against price gouging.[118] Market-based rates have been approved when the Commission has found sufficient protection against the exercise of market power.[119]

The Commission finds that the regulatory changes made in this rule ensure a regulatory scheme that protects against the exercise of market power and ensures that rates are within the ''zone of reasonableness'' even without a price cap on short-term capacity release transactions. In the first place, the removal of the rate cap for capacity release transactions does not effectively change the status quo, since the value of transportation in the bundled sales market can exceed maximum tariff-based rates. Thus, continuation of the maximum rate cap on unbundled capacity release transactions does little to protect against the exercise of market power by firm capacity holders. Its principal effect is to provide shippers with additional transportation options, to create greater efficiency in capacity allocation, and to move transactions from the less-well-reported bundled sales market to the better-reported transportation market. By removing the price cap from capacity release transactions, the Commission is not reducing protection for customers seeking released capacity, but is expanding their options and helping to foster a more efficient and transparent marketplace for released capacity.

In addition, the Commission is not adopting market-based rates for all capacity. It is removing rate regulation only from one element of the competitive mix—short-term capacity release transactions by shippers—while retaining regulation for sales of pipeline capacity. The Commission also is continuing to protect its primary constituency—captive long-term firm capacity holders—by continuing the same cost-of-service rate regulation that has been used for years.[120] The regulatory change in this rule affects only shippers buying short-term released capacity who are already at risk of not being able to acquire capacity.[121] As explained earlier, the Commission's regulation of pipeline transactions, as well as the operation of market forces, also will protect against the exercise of market power and keep capacity release rates within the zone of reasonableness.

AFPA contends that short-term shippers may be captive customers. But, short-term customers, those using interruptible or short-term firm pipeline service or relying on capacity release transactions, are, by the very nature of the services for which they contract, not captive. They are expressly taking the risk that during peak periods, they will be unable to obtain capacity and either are willing to forgo the use of gas entirely or are willing to pay the prices needed to obtain gas from alternative sources. Such customers, in fact, receive more protection if they can obtain the capacity they need by offering a sufficiently high price than if the price is regulated and they are unable to obtain capacity at all. If short-term customers want the insurance of having guaranteed transportation service, that security is available by obtaining long-term firm capacity from the pipeline.

Moreover, as explained in the previous section, the availability of regulated pipeline capacity as well as competition between holders of firm capacity mitigates the potential for releasing shippers to exercise market power. In *Environmental Action* v. *FERC*,[122] the court recognized that the Commission may need to relax price regulation in order to improve market efficiency and approved a flexible pricing program as long as the program maintained protections against the exercise of market power.[123] Here, the Commission similarly is improving the efficiency of capacity trading during peak periods while maintaining cost-of-service regulation for pipeline firm and interruptible service that will limit the ability of both firm capacity holders and the pipelines to exercise market power by withholding capacity.

Indicated Shippers suggest that removing the rate ceiling from capacity release transactions will permit firm capacity holders to exercise market power by withholding capacity from the market because they are not obligated to release that capacity. However, removing the rate ceiling will not permit a firm shipper to withhold capacity from the market to raise price above the maximum rate, because, in the short-run, that capacity always will be available from the pipeline as interruptible capacity, which the pipeline is obligated to sell at the approved just and reasonable rate. In the long run, pipeline firm transportation also is available as a check against short-term market power and the continuation of cost-of-service regulation for the pipelines provides an incentive for the pipeline to build additional capacity when justified by demand.

---

[113] *FPC* v. *Hope Natural Gas Co.,* 320 U.S. 591, 610 (1944); *Associated Gas Distributors* v. *FERC,* 824 F.2d 981, 995 (D.C. Cir. 1987), *cert. denied,* 485 U.S. 1006 (1988) (''The Natural Gas Act has the fundamental purpose of protecting interstate gas consumers from pipelines' monopoly power.'').

[114] Natural Gas Decontrol Act of 1989, H.R. Rep. No. 101–29, 101st Cong., 1st Sess., at 6 (1989); Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation Under Part 284 of the Commission's Regulations, Oder No. 636, 57 FR 13267 (Apr. 16, 1992), FERC Stats. & Regs. Regulations Preambles (Jan. 1991–June 1996) ¶30,939, at 30,932 (Apr. 8, 1992).

[115] *FPC* v. *Hope Natural Gas Co.,* 320 U.S. 591, 602 (1944); *Elizabethtown Gas Company* v. *FERC,* 10 F.3d 866, 870 (D.C. Cir. 1993).

[116] *See* Farmers Union Central Exchange v. FERC, 734 F.2d 1486, 1509–10 (D.C. Cir. 1984).

[117] Farmers Union, 734 F.2d 1486 at 1510.

[118] *Environmental Action* v. *FERC,* 996 F.2d 401, 410 (D.C. Cir. 1993).

[119] *Elizabethtown Gas Company* v. *FERC,* 10 F.3d 866 (D.C. Cir. 1993).

[120] *See Maryland People's Counsel* v. *FERC,* 761 F.2d 768 (D.C. Cir. 1985); *Maryland People's Counsel* v. *FERC,* 761 F.2d 780 (D.C. Cir. 1985) (special concern for effect of program on core captive customers).

[121] *See American Gas Association* v. *FERC,* 912 F.2d 1496, 1518 (D.C. Cir. 1990) (interruptible and short-term capacity holders not entitled to the same protection against market power as long-term firm capacity holders).

[122] *Environmental Action* v. *FERC,* 996 F.2d 401 (D.C. Cir. 1993).

[123] As the Court stated:

We acknowledge that the flexible pricing that fosters trading among members of the Pool also permits price discrimination especially against captive utilities. Yet, given the benefits of this trading, the limited number of captive members, and the provisions for monitoring transactions and remedying any abuses of market power, we do not find that the Commission acted arbitrarily when it approved the use of flexible prices despite their admitted risk. 996 F.2d at 411.

Process Gas Consumers maintains that competition may not limit the market power held by LDCs because they control access to primary delivery points and that obtaining secondary point access from other firm holders may not be the equivalent of obtaining primary point access from the LDC, particularly during periods of constraint when the pipeline may interrupt secondary deliveries. Process Gas Consumers also maintains that LDCs, by virtue of their control over their own facilities, can exercise market power over customers behind the city-gate and contends the Commission should not remove price ceilings for LDCs unless the LDCs provide shippers with reasonable city-gate access.

The Commission does not find that LDCs should be treated differently than other firm shippers with respect to their ability to release capacity. Such a distinction would skew the capacity release market by creating different classes of customers: one class without a price ceiling and the LDCs with a price ceiling. An LDC also is not more likely than other firm shippers to exercise market power by withholding capacity, because if it tried to do so, the capacity would be available from the pipeline as interruptible transportation, which the pipeline is obligated to sell at just and reasonable rates.

Moreover, as Process Gas Consumers itself recognizes, the Commission's jurisdiction does not extend to LDC activity behind their city-gates, which are the province of state regulatory authorities. Complaints about LDCs handling of transportation on their own systems are properly directed to the state regulatory agencies with jurisdiction over those activities. To the extent that an LDC engages in specific abuses of its market power over interstate transportation capacity, the Commission can remedy such abuses through individual action. The improved reporting requirements together with the Commission's revised complaint process will enable both shippers and the Commission to discern and redress abuses of market power. The possibility of abuse in specific circumstances, which can be addressed on an individual basis, should not preclude the Commission from adopting a policy that benefits the industry as a whole by enhancing customer options and improving marketplace efficiency.

AlliedSignal complains that removal of the price cap will leave the market open to hysteria leading to exorbitant prices during times of peak demand. In the first place, high prices during peak demand periods can be a function of supply and demand forces that raise prices to allocate capacity during peak periods. As long as capacity is not being withheld from the market and no discrimination is taking place, the high prices are a reasonable and necessary competitive response to market conditions to allocate capacity to those needing it the most. Indeed, as shown by the period of rate regulation of wellhead prices, maintenance of regulated prices can distort the market by upsetting the balance between supply and demand.[124] In any event, continuation of rate regulation for capacity release transactions will not limit the effect of so-called market hysteria, since the Commission's rate regulation has no effect on the prices for bundled gas and transportation capacity. Removal of price regulation from short-term capacity release transactions, therefore, will not add to pricing problems during peak periods, but instead should help to minimize these problems by increasing customers' options.

Dynegy and Process Gas Consumers raise the questions of whether pipelines can avoid protections against the exercise of market power by transferring capacity to their affiliates. In one respect, transfers of capacity to affiliates will not enable the corporate entity to exercise market power. Affiliates, like LDCs or other firm capacity holders will not be able to exercise market power, because they cannot effectively withhold capacity. If the affiliate refuses to release capacity, the pipeline still is obligated to sell the capacity at just and reasonable rates and cannot conspire with the affiliate to withhold capacity.

In another respect, transfers of capacity to affiliates could be troublesome, but not because the affiliate could exercise market power in the release market. One aspect of Commission regulation is intended to ensure that pipelines have the incentive to expand their pipeline when it is economic to do so. Through cost-of-service of regulation, the Commission ensures that pipelines do not benefit by creating scarcity by refusing to build long-term capacity.[125] However, if a pipeline affiliate holds a large enough block of capacity on its related pipeline, the corporate entity as a whole could benefit if the pipeline refused to build capacity, creating greater scarcity and higher prices and profits for the affiliate, which is not subject to cost-of-service limitations. This problem exists only in cases where an affiliate holds a large enough portion of pipeline capacity that the corporate entity as a whole can make more by creating scarcity than by building additional capacity and earning a rate of return on its investment.

This theoretical problem, however, exists in today's market where pipeline affiliates are able to make bundled sales not subject to a rate cap. Yet, there seems little indication that profits from scarcity exceed those that can be earned through construction, since pipeline construction applications have not noticeably declined.[126] However, because of the possibility of affiliate abuse, the Commission will be particularly sensitive to complaints that pipelines, on which affiliates hold large amounts of transportation capacity, are refusing to undertake construction projects when demand for construction exists. In cases where such concerns are established, the Commission would need to take remedial measures. Depending on the circumstances, such remedies could include: requiring pipelines to put in taps to reduce capacity bottlenecks; requiring pipelines to build additional capacity when requested by customers willing to pay the costs of construction; limiting the rates at which the affiliate can release capacity; limiting the amount of capacity the affiliate can hold; or prohibiting the affiliate from holding capacity on its related pipeline.

B. Peak and Off-Peak Rates

Use of peak/off-peak, or seasonal, rates for pipeline services could improve efficiency in the market place by better accommodating regulation to seasonal demand for capacity, and at the same time could benefit long-term captive customers. Therefore, as discussed below, the Commission will permit pipelines to institute peak/off-peak rates for all short-term services, *i.e.*, short-term firm and interruptible

[124] *See Transcontinental Gas Pipe Line Corporation* v. *State Oil and Gas Board,* 474 U.S. 409, 420 (1986) (Natural Gas Act's artificial pricing scheme is a major cause of imbalance between supply and demand).

[125] Under cost-of-service regulation, the pipeline can only recover the costs of its investment in pipeline facilities. It cannot capture added revenues by refusing to build additional capacity thereby raising the price for capacity. The Commission's peak/off-peak rate policy articulated here similarly protects against this problem through the requirement that pipelines cannot recover more than their existing cost-of-service through peak/off-peak rates.

[126] From 1997 to October 1999, the Commission has certificated 30 major on-shore and off-shore projects, not including storage, totaling 12,594.8 MMCF/day of capacity. There are currently 13 major construction project applications, not including storage, pending at the Commission, totaling 6,440 MMcf/day of capacity. *See* Department of Energy/Energy Information Administration, Pub. No. DOE/EIA–0560, Natural Gas 1998 Issues and Trends, 18 (June 1999) (80 natural gas pipeline projects completed between January 1997 and December 1998).

service and multi-year seasonal contracts,[127] as one possible method of promoting allocative efficiency that is consistent with the goal of protecting customers from monopoly power. The current use of uniform maximum rates, where fixed costs are recovered in 12 monthly installments, was developed at a time when the vast majority of firm contracts were long-term contracts. The use of uniform maximum rates for long-term contracts is appropriate because, under an SFV rate design, once a shipper has committed to buy capacity for a year, the use of seasonal reservation charges will not affect the total amount the customer will pay.

However, the use of uniform maximum prices for short-term service can create situations where short-term customers are able to purchase peak capacity at a price that may be lower than its market value while the pipeline sells off-peak capacity at ''discounted'' rates. If short-term customers are able to purchase peak capacity at less than its market value and off-peak capacity at a discount, while the long-term customers pay a uniform maximum rate, the short-term customers will receive annual service at a lower cost than long-term shippers. This works to the disadvantage of captive customers with long-term contracts. Further, under this scenario, short-term shippers seeking winter-only service can obtain peak period capacity for a fraction of the annual cost of providing capacity, leaving the long-term shippers responsible for the remainder. This cost allocation disparity between short- and long-term shippers could increase as LDC contracts expire and more capacity is sold in the short-term market.

Peak/off-peak rates could allow pipelines to increase revenue recovery from short-term peak period shippers. Increased cost recovery from peak short-term services lessens the level of costs that need to be recovered from long-term customers and minimizes the cost shifting that occurs with off-peak discounting. By reducing the rates in the off-peak periods, peak/off-peak rates could reduce the need for discounts and reliance on discount adjustments. Many commenters[128] object to the Commission's current discount adjustment policy under which pipelines offering discounts are able, in the next rate case, to adjust maximum rates to reflect the discounts. Peak/off-peak rates could better reflect the value of capacity during peak and off-peak periods, thereby reducing the need to make discount adjustments.

In addition to benefitting captive long-term customers, use of peak/off-peak rates for short-term services could better reflect the true value of capacity during peak and off-peak periods, and thus improve allocative efficiency especially during peak periods when capacity is constrained and the price in a competitive market would exceed the average maximum rate. In the current marketplace, at times when demand for capacity exceeds the available capacity, pipelines cannot automatically allocate that capacity to the shipper placing the highest value on the capacity. Instead, they must allocate capacity *pro rata* or on the basis of a queue. This often prevents shippers who most value capacity from obtaining it. With peak/off-peak rates the pipeline would be able to allocate that capacity more efficiently to those shippers valuing the capacity the most. Charging shippers more for use during peak periods also can provide better price signals about the need for new construction. The demand for pipeline capacity at peak is a major factor in the pipeline's decision to add to its facilities.

Thus, peak/off-peak pricing for short-term services could promote several important policy goals. It could remove one of the biases favoring short-term contracts, and could lower the share of costs allocated to long-term transportation customers. It could increase efficiency in short-term markets by allowing prices to better reflect demand during peak periods. Therefore, as discussed below, the Commission will permit pipelines to implement value-based peak/off-peak rates for their short-term transportation services, within the pipeline's current cost-based revenue requirement. Under an SFV rate design, the use of peak/off-peak reservation charges for long-term contracts would not affect the total amount a long-term customer would pay over the year. Therefore, this policy will not apply to long-term contracts that are for 12 or more consecutive months of service. However, long-term customers can choose to pay peak/off-peak rates as a billing adjustment.

Rates developed under a peak/off-peak methodology will be higher at peak periods than off-peak periods. This result is the same as the result under the current uniform maximum rate method. Currently, the rates actually paid by shippers are higher during peak because the pipeline is generally able to charge the maximum rate at peak, but must discount rates during off-peak periods to customers that have alternatives available in the marketplace. Therefore, charging a higher rate during peak periods is consistent with current practice. However, peak/off-peak pricing would better match demand with price than does the current method. In allowing seasonal/peak pricing, the Commission is improving upon the existing pricing model and retaining the revenue constraints of its existing cost-based ratemaking regulatory model.

The Commission will allow the pipelines to determine the most appropriate method of implementation given the characteristics of their individual systems, consistent with the general principles discussed in this section. The Commission's discussion of peak/off-peak rates in this section, and its suggestion that pipelines voluntarily use peak/off-peak rates is a policy statement, and not a rule that imposes any requirements on pipelines or changes current Commission regulations.

1. Background

The Commission has long recognized the value of seasonal, or peak/off-peak rates, and in the NOPR sought comments on implementation of seasonal rates as one method of improving the regulatory scheme. The Commission's current regulations[129] and its precedent[130] recognize that peak/off-peak rates have a role in the ratemaking process, and the Commission has specifically recognized that differences in peak and off-peak demand may be considered in ratemaking. In the 1989 Rate Design Policy Statement, the Commission expressed concern that the derivation of rates without regard to seasonal variations in use of the pipeline does not properly ration peak capacity or lead to efficient use of the pipeline in periods of excess capacity.[131] The Commission suggested that pipelines could assign peak/off-peak costs by seasonal load factors, or assign the cost

[127] If a shipper contracts for capacity for certain months of the year, over a period of several years, but service is not continuous for every month of a year, the contract is similar to several short-term contracts, rather than to a long-term contract of a year or more, where the shipper purchases capacity in consecutive months during both peak and off-peak periods.

[128] See, for example, the comments of APGA, Brooklyn Union, FPL Group, Inc., Illinois Municipal Gas Agency, Mississippi Valley and Willmut Gas, NASUCA, New England Gas Distributors, Pennsylvania Office of the Consumer Advocate, Process Gas, and the Public Service Commission of Wisconsin.

[129] 18 CFR § 284.7(c)(3)(i) (1999).

[130] *See, e.g.,* Opinion No. 369, Panhandle Eastern Pipe Line Co., FERC ¶ 61,264 (1991); Maritimes & Northeast Pipeline, L.L.C., 80 FERC ¶ 61,346 (1997).

[131] Policy Statement Providing Guidance with Respect to the Designing of Rates (Rate Design Policy Statement), 47 FERC ¶ 61,295 at 62,054 (1989).

of transmission facilities used to provide service above the annual load factor to the peak period.[132]

Part 284 of the Commission's regulations has long contained the rate objectives that rates for peak periods should be designed to ration capacity and rates for off peak periods should be designed to maximize throughput.[133] These rate objectives are independent of the costs of providing service. Part 284 also requires that rates reasonably reflect any material variation in the cost of providing service due to whether the service is provided during a peak or non-peak period.[134] While the regulations specifically recognize the validity of seasonal rates to ration capacity, maximize throughput, and reflect cost differences, they do not limit the use of seasonal rates to these circumstances, and nothing in the Commission's regulations prohibits the use of peak/off-peak rates that reflect differences in peak and off-peak demand. Thus, peak/off-peak rates are consistent with the Commission's existing regulations, and no changes to the regulations are necessary to implement peak/off-peak rates.

The Commission recognizes that some of its prior decisions could be interpreted as limiting the use of peak/off-peak rates to circumstances where seasonal rate differences are cost-based.[135] Although the regulations require seasonal rates to reflect seasonal cost differences, the regulations do not preclude seasonal rates designed on other bases, and the Commission has approved peak/off-peak rates using a value based method for setting peak/off-peak rates.[136] The Commission clarifies that nothing in its prior decisions was intended to limit the use of peak/off-peak rates to situations where seasonal rate differences are cost-based.

Of these two methods, basing peak/off-peak rates on value of service concepts, rather than specific costs, is more consistent with the goal of providing efficient pricing signals. Those customers that value capacity more highly should expect to pay higher prices when capacity is scarce. The prices they would be willing to pay have little relationship to the accounting cost of the facilities used to provide additional service at peak periods. In practice, it is very difficult to identify specific facilities, with the exception of storage, that are used to provide transportation service at peak periods rather than year round. A similar problem occurs on most systems if one attempts to identify specific costs that are attributable to peak/off-peak usage.

2. Implementation

The Commission will facilitate the implementation of peak/off-peak rates with a flexible policy that will permit the use of a wide variety of peak/off-peak rate methods. The pipelines can make changes in their peak/off-peak rates on a monthly basis, within existing cost of service constraints. Pipelines can implement peak/off-peak rates either through a general section 4 rate case or a *pro forma* tariff filing. The following discusses the basic parameters applicable to peak/off-peak filings and the procedures to be followed in processing the filings.

a. Parameters for Establishing Peak/Off-Peak Rates. Value-based peak/off-peak rates are just and reasonable cost-based rates.[137] Like uniform maximum rates, peak/off-peak rates would be established by taking the pipeline's annual revenue requirement and deriving from it a daily or monthly rate. The difference in developing peak/off-peak rates and the current uniform maximum rate is that instead of dividing the annual revenue requirement by 365 to obtain a daily rate, different daily or monthly rates will be developed for peak and off-peak periods using one of several possible methods of measuring the value of capacity at peak and off-peak.[138] The sum of the daily or monthly rates, multiplied by the quantity used or reserved, still must not exceed the pipeline's annual revenue requirement, and thus, any increases in rates at peak must be offset by decreases in off-peak rates. In other words, if a shipper paid the peak and off-peak rate for the same volume of transportation every day of the year, the amount it paid annually for service would be no more than if it had paid the uniform maximum daily rate for the same transportation volume based on the same revenue requirement.

This requirement limits the rate the pipeline may charge. For example, if the pipeline wanted to charge a rate greatly in excess of the current uniform maximum rate in the four month period December through March, it would have to match this increase with a corresponding reduction in rates for the remaining months. This places a check on the ability of the pipelines to propose extraordinarily high rates during peak periods because any rate increase for peak periods must be matched by a rate decrease during the off-peak periods. This is a disincentive for pipelines to raise peak period rates to unrealistically high levels since this would require an off-setting lowering of off-peak rates that could compromise the pipeline's ability to recover maximum off-peak revenues.

As illustrated by the comments, there is more than one reasonable way to implement peak/off-peak rates based on value of service concepts. The methods proposed by the commenters include using a ratio of the prices for capacity release and IT on a system to develop a ratio,[139] looking at usage of compression to develop a ratio,[140] looking at peak/off-peak volumes/load factors to develop a ratio,[141] developing a ratio based on historic price differentials between receipt and delivery point prices, or allowing a shaping of prices to try to capture the value of the capacity,[142] and tailoring of contract demand levels during the year.[143] Other methods of developing peak/off-peak rates could include looking at the price at which capacity has traded, load factors, basis or other indexing, or other methods of measuring the value of capacity throughout the year. Since capacity prices are currently capped at uniform maximum rates, the historical data on pricing may not be the best indicator of the value.

Some methods may work better for certain systems than others. For example, on some systems' data may be more readily available to base peak/off-peak differences on basis differentials because the pipeline is directly connected to major market centers so that there is already considerable data on the value of the pipeline's capacity. On other systems where there is a wide swing in load factors from peak to off peak periods, a method based on load factors may make more sense.

Therefore, the best method of developing peak/off-peak rates will depend in part on the specific characteristics of each pipeline, and the

[132] *Id.*

[133] 18 CFR 284.7(b).

[134] 18 CFR 284.7(c)(3)(i).

[135] *See, e.g.,* Opinion No. 369, Panhandle Eastern Pipe Line Co., 57 FERC ¶ 61,264 at 61,831 (1991) (the Commission permitted seasonalization of the sales reservation charge, but found that, based on the facts of that case, seasonalized firm rates could not be justified based on the need to ration capacity).

[136] *See* Maritimes & Northeast Pipeline, L.L.C., 80 FERC ¶ 61,346 (1997).

[137] Rate Design Policy Statement, 48 FERC ¶ 61,122 at 61,446 (1989).

[138] Some of these methodologies are discussed below.

[139] See, *e.g.,* comments of Amoco.

[140] See, *e.g.,* comments of Columbia.

[141] See, *e.g.,* comments of Columbia.

[142] See comments of Texas Eastern/Algonquin, CMS Panhandle. Under this approach the pipeline would assess the relative value of capacity throughout the year and design reservation charges based on this assessment. The sum of the annual peak/off-peak reservation charges would equal the sum of the current annual average reservation charges.

[143] See comments of Enron Pipelines.

Commission will not adopt any one method of developing peak/off-peak rates, but will leave the details of the implementation of peak/off-peak rates to individual pipelines. The Commission will consider any reasonable method of implementation that is consistent with the general principles discussed in this section, but the pipeline will have the burden of proof to show that its proposed method is just and reasonable.

b. *Process for Implementing Peak/Off-Peak Rates.* The implementation of peak/off-peak rates could lead to higher pipeline revenues from short-term services since a pipeline could reduce off-peak price caps so that they would be close to recent discount history, and correspondingly increase peak price caps. The pipeline might see little or no reduction in off-peak revenues since market prices are usually below the uniform maximum price caps. Because the price cap would be higher in the peak with peak/off-peak rates, the pipeline's revenues should increase if it adopts peak/off-peak rates.

The process for implementing peak/off-peak rates, therefore, must take the increased revenues into account. One method for doing so would be for the pipeline to file a general rate case to implement peak/off-peak rates. In a general rate case, all pipeline costs and revenues can be examined and the appropriate revenue responsibility of each service can be decided. Thus, the rates for long-term services would be reduced in recognition that the pipeline could be expected to recover more revenues from short-term services.

However, the filing of general section 4 rate case may not be well-suited to this context. The Commission's rate methodology relies on a historical test period to project future throughput for each service, and revenue responsibility is assigned to each service based on those projections. There is no historical experience that would adequately project future short-term service demand with peak/off-peak pricing. Also, using general rate cases to implement peak/off-peak rates could be time consuming.

Therefore, the Commission will establish a procedure under which pipelines can establish peak/off-peak rates through a *pro forma* tariff filing so that the Commission and the parties will have an adequate opportunity to review the proposal prior to implementation. Under this procedure, the *pro forma* filing would be noticed with comments due on the pipeline's proposal within 21 days, rather than the 12 days permitted for tariff filings. The Commission would take action on the filing within 60 days. Pipelines interested in implementing peak/off-peak rates are encouraged to file proposals as soon as possible.

Consistent with the goal of benefitting long-term captive customers, if peak/off-peak rates result in the pipeline's recovering increased revenues from short-term peak services, those increased revenues should be used to offset the costs borne by long-term customers. Therefore, if the pipeline seeks to implement seasonal rates through a *pro forma* tariff filing, the pipeline must include in its proposal a revenue sharing mechanism that will provide for at least an equal sharing of any increased revenues with its long-term customers. The actual amount of the revenue credit can be negotiated with the pipeline's customers before or during the *pro forma* tariff proceeding. After 12 months experience with peak/off-peak rates, the pipeline must prepare a cost and revenue study and file the study with the Commission. Pipelines must file the cost and revenue study pursuant to the format prescribed in § 154.313 of the Commission's regulations.[144] The study must be filed within 15 months of implementing peak/off-peak rates. Based on the cost and revenue study, the Commission will determine whether any rate adjustments are necessary to the long-term rates, and may order such adjustments prospectively.

As explained above, one of the policy rationales for adopting peak/off-peak rates is that under the current cost-of-service rate methodology, underpricing short-term peak capacity results in the pipeline's long-term customers paying higher rates because a greater share of the pipeline's costs are recovered from its long-term rates. The Commission is seeking to lower the rates to long-term customers in recognition of the additional risks they take by signing long-term contracts. Therefore, if a pipeline moves to peak/off-peak rates it should benefit the pipeline's long-term customers, and a revenue sharing mechanism that benefits only long-term customers is appropriate.

The Commission will not require any specific method of determining the amount of additional revenues that are attributable to implementation of peak pricing, since the same approach may not work equally well on all pipelines. The pipeline must propose a reasonable method when it files to implement peak pricing. The issues involved in developing an appropriate revenue sharing mechanism may be more complex than deriving the seasonal rate itself, and these issues could be considered independently of the rate. Pipelines are encouraged to work with their customers to develop a method that has wide support. The method should be fair to the pipeline and its long-term customers and should be easy to implement. Whatever method is chosen, the pipeline is not required to share excess revenues if there really are none. A pipeline will not be required to share revenues if it demonstrates that its total revenues from peak/off-peak rates were less than the revenues allowed for the relevant services in its last rate case.

[144] 18 CFR 154.313 (1999). *See* Trunkline LNG Company, 82 FERC ¶ 61,198 (1998), *aff'd,* 194 F.3d 68 (D.C. Cir. 1999).

C. Term-Differentiated Rates

In the NOPR, the Commission stated that one method of reducing asymmetry of risk that favors short-term contracts, and of strengthening the long-term market would be to encourage contracts that contain lower maximum rates for longer term service than for shorter term service in recognition of the value of longer term contracts in limiting the pipeline's risk. The Commission sought comments on whether and how to encourage such term-differentiated rates. Upon review of the comments, the Commission has determined that term-differentiated rates should be available to the pipeline as one of several methods that could be used to price capacity more efficiently. As explained below, the Commission will not adopt any one method of establishing term-differentiated rates, but will permit a pipeline and its customers to develop specific methodologies suitable to the characteristics of the specific pipeline in a section 4 rate proceeding.

Term-differentiated rates would match price more closely with risk-adjusted value, and could result in a rate structure that prices capacity held for a longer term at a lower rate than capacity held for a shorter term. With term-differentiated rates, maximum posted rates for longer terms would be lower than rates for shorter term service on a per unit basis and at comparable load factors. Term-differentiated rates do not differentiate between seasons, but instead, differentiate based on the length of the contract. Term-differentiated rates would more accurately reflect in the price of service the relative levels of risk that pipelines must face when selling service for a shorter period than for a longer period, as well as the higher risks that customers face when they purchase service for a longer period of time.

As the Commission explained in the NOPR, a shorter term contract is riskier for the pipeline, and a higher rate would compensate the pipeline for this

additional risk. A shorter term contract provides greater flexibility and less risk to the shipper, and a higher rate would recognize and require payment for these benefits. The Commission has already recognized, in the context of oil pipeline rates, that the lower risk to the shipper and the higher risk to the pipeline, associated with shorter term contracts may properly be reflected in a higher rate for such service. In *Express Pipeline Partnership,*[145] the Commission explained that shorter term shippers have less risk because they have maximum flexibility to react to changes in their own circumstances or in market conditions, and are a greater risk to the pipeline because they do not provide the revenue assurances or planning assurances to the pipeline that long-term shippers do.

Several commenters[146] argue that term-differentiated rates are inconsistent with cost-based regulation. They argue that term-differentiated rates are not based on cost incurrence because there is no evidence that it costs more for the pipeline to meet the needs of short-term contracts. However, as explained above in the discussion of peak/off-peak rates, cost-based ratemaking is not simply a matter of strict cost incurrence. ''Value and costs are inexorably linked'' in ratemaking, and the Commission can legitimately consider the overall goals of its ratemaking policy in developing just and reasonable cost-based rates.[147] Further, the existence of long-term contracts reduces pipeline risks and therefore lowers its cost of capital.

Like peak/off-peak rates, term-differentiated rates would be cost-based, just and reasonable rates because the Commission will limit the rates in the aggregate to produce the pipeline's annual revenue requirement. The difference between developing constant average rates and term-differentiated rates is that instead of establishing a single rate cap for each service, as in current practice, with term-differentiated rates, different rates would be charged to different customers based on the length of their contract.

There are various methods that could be used to develop reasonable term differentiated rates. For example, in its comments, INGAA suggested that term-differentiated rates could be developed using a cost allocation approach that would allocate costs between shorter term and longer term service based on an allocation factor such as projected percentages of throughput.

Several commenters[148] asserted that the Commission should not approve term-differentiated rates as a ratemaking option without setting forth a specific proposal for comment in a generic proceeding. However, the Commission has concluded that since there is more than one appropriate method of establishing term-differentiated rates, and some methods might be more appropriate on certain pipelines than on others, it will not limit the pipeline to one method, but will allow the pipelines and the customers to work out the details of the methodologies in specific rate proceedings.

A pipeline may propose term-differentiated rates just for long-term services or for both short- and long-term services. The Commission recognizes that the use of term-differentiated rates for short-term services may enhance the potential for price discrimination, particularly during off-peak periods, by increasing the rate caps that would apply to short-term service acquired in off-peak periods. Consequently, a pipeline proposing term-differentiated rates for short-term services will need to fully explain the basis and justification for the price differentials.

Term-differentiated rates have a much greater potential for effecting the rates of all customers than peak/off-peak rates. Term-differentiated rates would raise the maximum tariff rates for some customers, and there should be a decrease in the maximum tariff rates for long term customers. The general reallocation of revenue responsibility among customer classes must be done through rate changes for all customers simultaneously in the section 4 rate filing in which the pipeline seeks to implement term-differentiated rates.

D. Voluntary Auctions

Auctions, if properly designed, can provide for efficient allocation of capacity and natural gas, reduce transaction costs in finding and arranging capacity transactions, and provide for more accurate dissemination of relative pricing information to the marketplace. Auctions also can be used as methods of mitigating the effects of market power by limiting the ability of sellers to withhold capacity, to price discriminate, or to show favoritism. With the growth of the Internet, electronic auctions have become an effective and efficient method of exchanging goods and services. Auctions increasingly are being used successfully in energy industries. Electronic auctions have been established to facilitate exchanges of gas. Auctions similarly are being used in the electric industry to allocate generation and transmission capacity. Pipelines have been using electronic open seasons to determine demand for new construction. The capacity release posting and bidding system itself is a form of auction.

A number of commenters recognize the potential value in the use of auctions, but urge the Commission and the industry to obtain greater familiarity with the use of auctions in order to obtain better understanding of the auction formats that work well and those that do not. Although the Commission is not moving forward with mandatory auctions for pipeline capacity as well as short-term released capacity at this time, the Commission is still of the view that more extensive use of auctions can provide a wide range of benefits to the gas industry. Pipelines are encouraged to file proposals for implementing auctions and this section discusses principles for evaluating such proposals. Third-parties also encouraged to develop capacity auctions, and, as discussed below, the Commission, in appropriate circumstances, may be willing to modify certain regulatory requirements to facilitate such auctions.

The existing third-party auctions for natural gas, for instance, may form the basis for the development of an efficient auction for transportation capacity or one that would combine the gas commodity and transportation capacity within a single auction format. Such auctions could resolve one of the objections to capacity-only auctions: that capacity-only auctions would force buyers to obtain capacity, without knowing whether they would be able to obtain gas at a reasonable price.[149] Pipelines also may find it efficient to use a form of auction to allocate short-term capacity on a monthly, daily, or even intra-day basis. As a result of restructuring under Order No. 636, most pipeline tariffs require that interruptible capacity be allocated based on price when the pipeline is unable to fulfill all nominations for service.[150] The use of a more formal auction method, therefore,

[145] 76 FERC ¶ 61,245, *reh'g denied,* 77 FERC ¶ 61,188, (1996).

[146] See, for example, comments of Dynegy, Amoco, and Indicated Shippers/

[147] Interstate Natural Gas Pipeline Rate Design, 48 ¶ 61,122 at 61,446 (1989).

[148] See, for example, comments of Process Gas Consumers.

[149] *See* Comment of Dynegy. Dynegy was concerned that if a shipper obtained capacity and then had to negotiate for gas, the gas producer would obtain leverage in the transaction, because the shipper had already committed to pay for capacity from a particular receipt point.

[150] *See* Robin Pipeline Company, 81 FERC ¶ 61,041, at 61,225 (1997); Pacific Gas Transmission Company, 76 FERC ¶ 61,258 (1996).

may be a reasonable method of allocating capacity.

The Commission also encourages pipelines and third-parties to consider establishing multi-pipeline or regional auctions. Such auctions could eliminate concerns expressed in the comments about possible difficulties in using auctions on individual pipelines to acquire a capacity path traversing multiple pipelines.[151] Pipelines in a region, for instance, could arrange with a third-party auctioneer to sell the pipelines' available capacity in the same auction as capacity release transactions in that region, thereby providing shippers with one-stop capacity shopping.

The Commission recognizes that some of its existing regulations may impede the development of auctions. For instance, Altra has identified the requirement that all capacity release transactions must be posted for bidding on pipeline Internet sites as a potential barrier to third-party auctions, because it would require the double posting of capacity: once on the third-party's auction mechanism and a second time on the pipeline's Internet site. The Commission also has required, and, in this rule is continuing to require, the publication of the names of shippers acquiring capacity from releasing shippers and the pipeline in order to provide price transparency and to permit effective monitoring of potential undue discrimination. In a properly designed auction, however, the requirement for posting the winning bidder's name may not be necessary, so long as the market price is disclosed. A waiver of the requirement to post the winning bidder's name, or to delay such posting, could be granted when the auction is designed in such a way that shippers can verify that the auction was properly conducted and the winning bid awarded fairly without favoritism.[152] Upon application by a third-party or pipeline, the Commission would consider waiving these or other regulatory requirements that unnecessarily impede the development of auctions. Pipelines, however, may need to continue to post the results of affiliate transactions unless they can demonstrate that the format of the auction and the results are designed in such a way as to preclude affiliate favoritism. The use of third-party auctioneers or certification may be methods of providing sufficient security against affiliate abuse.

An auction also may be a means by which a pipeline could sell some or all of its capacity without a price cap if the auction is designed in such a way as to protect against the pipeline's ability to withhold capacity and exercise market power. Not all types of capacity would have to be allocated through the auction process. For example, the pipeline may have a reasonable basis for limiting the auction only to short-term firm or interruptible capacity. The Commission also still sees value in permitting the pipelines to negotiate prearranged deals while they conduct auctions for remaining capacity, although, as discussed below, pipelines must not withhold available capacity from the auction simply because they believe a better pre-arranged deal may be arranged in the future.

Once capacity is placed in the auction, the pipelines must design the auction in ways to prevent the withholding of capacity and the exercise of market power. Capacity can be withheld by a pipeline in two primary ways: the pipeline can withhold capacity directly by not putting it into the auction; or it can indirectly withhold capacity through the use of a reserve price. In a proposal for auctions without a rate cap, all capacity available at that time of the auction would have to be included in the auction. The auction proposal also needs to address the appropriate limitations that should be placed on the level at which the pipeline can establish reserve prices, particularly whether different reserve prices should be established for peak and off-peak capacity.

While the Commission will not insist on any particular auction format for pipelines or third-parties, the Commission sets forth below some basic principles to which auctions should adhere:

- The timing of the auction should be predictable, and shippers potentially offering or bidding on capacity should have notice of when the auction will be held and what capacity will be included.
- The auction should be open to all potential bidders on a non-discriminatory basis.
- The auction should be user-friendly with information on the rules and procedures easily accessible to all.
- The bidding procedures as well as the methods for selecting the best bid should be fully disclosed prior to the auction. For instance, if net present values formulas are used, the discount rate and the method of calculation should be disclosed.
- There should be no favoritism in the determination of the winning bidder and mechanisms should be included to permit monitoring of how the selection criteria were applied. This would include methods of verifying any reserve price applied in an auction.
- Transaction information (such as prices, volumes, and receipt and delivery points) should be disclosed so that shippers can ascertain the value of transportation. The names of shippers may not need to be disclosed or could be disclosed at a later date if the auction results are verifiable and free from potential affiliate favoritism.

Adherence to these principles should help to ensure that auctions are transparent, verifiable, and non-discriminatory. The Commission strongly encourages pipelines and third-parties to begin the development of auction formats so that the industry will gain greater experience and familiarity with the use of auction techniques. Toward that end, Commission staff will be available to assist pipelines or third-parties in their development of auction formats.

III. Improving Competition and Efficiency Across the Pipeline Grid

The Commission in this rule is making changes to enhance competition and improve efficiency across the pipeline grid. By improving efficiency and shipper options, these changes should provide shippers with market mechanisms that will better enable them to avoid market power where it exists. The changes include revising Commission regulations to: require pipelines to revise their scheduling procedures so that capacity release transactions can be scheduled on a comparable basis with other pipeline services; require pipelines to permit shippers to segment capacity and to facilitate capacity release transactions; and require pipelines to offer services that shippers can use to avoid penalties and to provide shippers with additional information that will enhance their ability to avoid penalties. Pipelines must file *pro forma* tariff sheets to comply with these requirements by May 1, 2000. Interested parties will be provided 30 days to comment on the *pro forma* tariff filings.

A. Scheduling Equality

The Commission is adopting in this final rule, the proposal set forth in the NOPR to amend its regulations to include a new § 284.12(c)(1)(ii) to provide that pipelines must provide purchasers of released capacity the same ability to submit a nomination at the first available opportunity after consummation of the deal as shippers purchasing capacity from the pipeline. This will enable shippers to acquire released capacity at any of the nomination or intra-day nomination

[151] *See* Comments of Process Gas Consumers I, Wisconsin Distributors, Nicor Gas, PG&E, Shell Energy Services.

[152] For instance, the use of an independent firm to verify the results of the auction may be sufficient without the posting of winning shippers' names.

times, and nominate gas coincident with their acquisition of capacity. By enabling released capacity to compete on a comparable basis with pipeline capacity, this will foster a more competitive short-term market.

In the NOPR, the Commission explained that the current regulations put capacity obtained in the release market at a disadvantage compared to capacity obtained directly from the pipeline because nomination and scheduling opportunities for capacity release transactions are significantly circumscribed. As the Commission explained, pipelines can sell their interruptible and short-term firm capacity at any time, and shippers can schedule that capacity at the earliest available nomination opportunity. Further, shippers purchasing from the pipeline have three opportunities for intra-day nominations.[153] Similarly, capacity holders making delivered sales can nominate and schedule at every available opportunity. By contrast, shippers utilizing released capacity must consummate their deals by 9:00 AM in order to submit a nomination by 11:30 AM to take effect at 9:00 AM the next gas day, and they cannot use an intra-day nomination opportunity to submit a nomination for the current gas day.

In order to place capacity release transactions on a more equal footing with pipeline services, the Commission is amending its regulations to include a new § 284.12(c)(1)(ii) to provide that pipelines must provide purchasers of released capacity, like shippers purchasing capacity from the pipeline, with the opportunity to submit a nomination at the first available opportunity after consummation of the deal. The regulation specifically provides that the contracting process should not interfere with the ability of the replacement shipper to nominate at the time the transaction is complete. In the NOPR, the Commission explained that there are several ways that a pipeline can protect itself, and suggested that pipelines can institute procedures under which replacement shippers receive pre-approval of their credit-worthiness or receive a master contract, such as those given to interruptible shippers, permitting the replacement shipper to nominate under the contract at any time. The Commission will not require any specific method of compliance with this regulation, but will allow the pipeline to develop procedures suitable for its system.

The vast majority of the commenters fully supported the Commission's proposal.[154] These parties agree that providing replacement shippers with the same opportunities to nominate gas as the shippers nominating primary capacity will promote more competitive markets and help mitigate the pipeline's market power. For example, Dynegy characterizes the Commission's proposal as a ''common sense adjustment'' that will pave the way to more competitive markets and mitigate pipeline market power.

Several of the commenters asked the Commission to clarify the bumping right of replacement shippers in view of the new procedures.[155] For example, Industrials state that it seems clear that a replacement shipper should have the same bumping rights as any firm shipper vis-a-vis an interruptible shipper, but that the question of whether a replacement shipper should be able to bump secondary firm if the replacement shipper has primary firm is more difficult, and the Commission should clarify the entire issue of intra-day bumping of secondary firm by primary firm.

Nothing in the revised regulation adopted here changes the current rules on bumping, and the bumping rules in effect on each pipeline will remain unchanged and will continue to govern the priorities among shippers. A replacement shipper would, as a firm shipper, bump an interruptible shipper, subject to the requirement of notice to the interruptible shipper and an opportunity to renominate.[156] Generally, primary firm will not interrupt secondary firm on an intra-day basis once the gas has begun to flow, but again that rule is pipeline-specific, and will be governed by the particular pipeline's tariff.[157]

Some of the commenters suggested procedural changes which they state would expedite the execution of an agreement between the pipeline and the replacement shippers where such an agreement is required by the pipeline. For example, Dynegy suggests that the Commission require pipelines to adopt a master *pro forma* capacity release service agreement, or an umbrella agreement, that would include pre-approved credit, upon which replacement shippers can aggregate released capacity.

The regulation adopted by the Commission specifically provides that if the pipeline requires the replacement shipper to enter into a contract, ''the requirement for contracting must not inhibit the ability to submit a nomination at the time the transaction is complete.'' The Commission suggested in the NOPR several methods, including the type of procedure suggested by Dynegy, that pipelines could use to meet this requirement. The Commission will not mandate any one method, but will leave this to be resolved by the pipelines and shippers.

Dynegy argues the Commission should, in this proceeding, require all restrictions on capacity release to be removed. For example, Dynegy states that releasing shippers should be given the same rights as pipelines to sell capacity for less than a day. Further, Dynegy states that certain pipelines place other restrictions on released capacity, such as refusing to continue a discount if the capacity is released, requiring additional paperwork for capacity releases, requiring releasing shippers to remit to the pipeline any amounts received from the replacement shipper in excess of the releasing shipper's discounted rate, and requiring a deposit every time a capacity release bid is submitted.

Dynegy's concerns about discounting have been resolved by the Commission in prior proceedings. The Commission has specifically held that a discount cannot be conditioned on an agreement not to release the capacity, and a pipeline cannot refuse to continue a discount if capacity is released.[158] Further, Order No. 636–A specifically provides that ''a releasing shipper paying discounted rates is entitled to receive the proceeds from a release even if such proceeds exceed its reservation fee.'' [159] The Commission has recognized an exception to this general rule only if the pipeline and the releasing shipper negotiate a revenue sharing agreement that is approved as part of a general section 4 rate

[153] Standards for Business Practices of Interstate Natural Gas Pipelines, Final Rule, 63 FR 39509 (July 23, 1998), 84 FERC ¶ 61,031 (1998).

[154] For example, AEC Marketing, AF&PA, AGA, Amoco, Atlanta Gas Light, Colorado Springs, Columbia LDCs, Consolidated Natural, Duke Energy Trading, Exxon, Florida Cities, FPL Group, IPAA, Indicated Shippers, Louisville, Market Hub Partners, MichCon, Midland, NARUC, NEMA, NGSA, New England Gas Distributors, PanCanadian, Philadelphia Gas Works, Process Gas Consumers, *et al.,* Proliance, PSC of Kentucky, PSC of New York, PSC of Wisconsin, Sithe, Washington Gas Light, and Wisconsin Distributors.

[155] For example, see the comments of Industrials, New York Public Service Commission, and NGSA.

[156] *E.g.* Tennessee Gas Pipeline Corporation, 73 FERC ¶ 61,158 (1995).

[157] *See* El Paso Natural Gas Company, 81 FERC ¶ 61174 at 61,763 (1997).

[158] Natural Gas Pipeline Co., 84 FERC ¶ 61,099 (1998).

[159] Order No. 636–A, FERC Stats. & Regs. ¶ 30,950 at 30,562 (1992).

proceeding or specifically approved as a non-conforming discount agreement.[160]

In addition, there is no basis for a pipeline to charge a deposit every time capacity is released. Under the new regulation adopted here, as well as under GISB Standard 5.3.2, the pipeline must approve a contract within an hour, and therefore will know before gas flows under the release whether the replacement shipper is creditworthy. If the replacement shipper is creditworthy, then there is no basis for requiring a bond. The only time this issue would arise is when the replacement shipper is determined not to be creditworthy. In these circumstances, the pipeline could give the releasing shipper the option of posting a bond for the usage charge or assuming liability for the usage charge in the event of the replacement shipper's default.

Some of the other problems cited by Dynegy, such as additional paperwork for capacity release, should be alleviated by the rule adopted here. Creating equality in nominations for capacity release will foster a more competitive market. However, the Commission has recognized that some of the differences in the treatment of different types of capacity reflect differences in the nature of the services that should be preserved. The Commission is not prepared to say at this time that all differences in the treatment of capacity release are unwarranted and should be eliminated.

INGAA and Enron Pipelines argue that the different treatment of capacity release does not result from a lack of nomination opportunities, but stems from the deadline by which shippers currently must complete capacity release transactions. INGAA suggests that the problem could be solved by not requiring pre-posting and bidding for capacity release transactions. If the Commission does not accept this proposal, INGAA states that it would support revisions to the standard capacity release timeline to permit capacity release transactions to be conducted in the morning before the timely nomination deadline, rather than requiring such transactions to close on the day before nominations. INGAA states that an updated timeline is a better approach than setting a one-hour contracting requirement.

The rule adopted here will speed up the capacity release nomination process for pre-arranged deals, but the Commission will not change the requirement for posting and bidding for longer deals. Posting and bidding is necessary to continue to protect against undue discrimination, and where capacity release is for a period of a month or longer, posting and bidding should not interfere with execution of the contract.

The Coastal Companies state that while they do not oppose the goal of achieving parity between pipeline capacity and release capacity, they believe that the Commission's proposal will create additional unnecessary burdens on pipelines and shippers. Coastal states that, contrary to the Commission's assumption, shippers do not avoid capacity release, but instead seek out the capacity release market in order to maximize flexibility and minimize disclosure. They state that their companies are already handling release transactions expeditiously. Specifically, they state that ANR already has in its tariff a master agreement for replacement shippers to utilize, and CIG and WIC create a contract immediately at the time of the award. If the Commission does mandate these changes, the Coastal Companies ask the Commission to permit the pipelines to submit limited section 4 filings in order to recoup the costs associated with the mandated procedures.

Contrary to the assertion of the Coastal Companies, the comments received by the Commission on this issue indicated a general consensus that current restrictions on nominations and scheduling of capacity release do inhibit the use of release capacity, and that the Commission's proposal will alleviate this problem. If the Coastal Companies already expedite capacity release agreements and use a master contract, they should not have to make any significant changes in their procedures, and implementation should not be burdensome to them.

Finally, some commenters[161] have asked that the Commission eliminate the ''shipper must have title'' policy. For example, AGA asserts that the Commission should consider repeal of the policy because the market has changed since issuance of Order Nos. 436 and 636. Several other commenters ask that the Commission consider waivers of the shipper must have title policy for LDCs.[162]

The shipper must have title policy developed in the individual pipeline proceedings to implement open access transportation under Order No. 436, and was intended to assure nondiscriminatory access to transportation.[163] Thus, the policy predates the Commission's capacity release program established in Order No. 636, but the capacity release rules were designed with this policy as their foundation. For example, the rules are designed with all transactions conducted through the pipeline, with each shipper who acquired capacity contracting with the pipeline.

Under the capacity release rules, all allocations of capacity must be nondiscriminatory. The current regulations are designed to assure the transparency of capacity release transactions and thereby assure that capacity is allocated on a non-discriminatory basis. The regulations are also designed to assure that capacity is allocated to the highest bidder and thereby promote efficient pricing of capacity. Without the shipper must have title policy, it is unlikely that shippers would need to use capacity release because capacity holders could simply transport gas over the pipeline for another entity. These transactions would not be subject to any of the capacity release requirements, such as the reporting requirements or the allocation rules. Without the shipper must have title rule, the identity of the users of the pipeline's transportation and the conditions under which they moved gas would not be known.

It is possible that the Commission could revise the capacity release program so that it could operate without the shipper must have title policy and still achieve the objectives of nondiscriminatory, efficient allocation of capacity with transparency. However, this would require major revisions to the current capacity release regulations, and such a change is not within the scope of this proceeding. The Commission recognizes that the current policy may impose some transaction costs, but this is necessary to ensure the ability to achieve the Commission's regulatory objectives.

The Commission would consider any such changes to the capacity release program in a separate proceeding at a later date.

B. Segmentation and Flexible Point Rights

In Order No. 636, the Commission established two principles—flexible point rights and segmentation—that are important to creating efficient

[160] Natural Gas Pipeline Co., 82 FERC ¶ 61,289 (1998); 84 FERC ¶ 61,099 (1998).

[161] See, for example, comments of AGA, Atlanta Gas Light, Edison Electric, Brooklyn Union, Atlanta Gas Light Co.

[162] See, for example, comments of Columbia LDCs, Shell Energy, and ConEd.

[163] *E.g.,* Consolidated Gas Transmission Corp., 38 FERC ¶ 61,150 at 61,408 (1987) (''all shippers shall have title to the gas at the time the gas is delivered to the transporter and while it is being transported by the transporter''); Texas Eastern Transmission Corporation, 37 FERC ¶ 61,260 at 61,683–85 (1986)).

competition in the market, both between shippers releasing capacity and the pipeline as well as between releasing shippers.[164] Flexible point rights refer to the rights of firm shippers to change receipt or delivery point so they can receive and deliver gas to any point within the firm capacity rights for which they pay. Segmentation refers to the ability of firm capacity holders to subdivide their capacity into segments and to use the segments for different capacity transactions.

The ability to use flexible receipt and delivery point rights and to segment capacity enhances the value of firm capacity and the ability of firm capacity holders to compete with capacity available from the pipeline as well as capacity available from other releasing shippers. In the example used in Order No. 636, a shipper holding firm capacity from a primary receipt point in the Gulf of Mexico to primary delivery points in New York could release that capacity to a replacement shipper moving gas from the Gulf to Atlanta while the New York releasing shipper could inject gas downstream of Atlanta and use the remainder of the capacity to deliver the gas to New York. In order for such a transaction to work, both the releasing and replacement shippers need the right to change their receipt and delivery points from the primary points in their contracts to use other available points.

The combination of flexible point rights and segmentation increases the alternatives available to shippers looking for capacity. In the example, a shipper in Atlanta looking for capacity has multiple choices. It can purchase available capacity from the pipeline. It can obtain capacity from a shipper with firm delivery rights at Atlanta or from any shipper with delivery point rights downstream of Atlanta. The ability to segment capacity enhances options further. The shipper in New York does not have to forgo deliveries of gas to New York in order to release capacity to the shipper seeking to deliver gas in Atlanta. The New York shipper can both sell capacity to the shipper in Atlanta and retain the right to inject gas downstream of Atlanta to serve its New York market.

The Commission's segmentation policy was not included in the Commission's regulations. Moreover, the segmentation policy is not being uniformly implemented across the pipeline grid. Some pipelines may not permit segmentation at all or may only permit segmentation for release purposes, but not by the shipper for its own uses. In order to improve competition, the Commission is requiring pipelines to permit shippers to segment their capacity for their own use or for release to the extent operationally feasible.

Another issue raised in the NOPR concerned the Commission's policy with respect to relative priorities for shippers to use secondary points within their path and for confirmations at points of interconnection between pipelines. On these issues, the Commission has determined that a generally applicable regulation is not appropriate and that these issues are best handled on a case-by-case basis.

The Commission addresses below its determinations with respect to segmentation and with respect to relative priorities for shippers using secondary points and at points of pipeline interconnection.

1. Segmentation Policies

In the NOPR, the Commission sought comment on whether further regulatory change in its segmentation and flexible receipt and delivery point policies are needed to enhance competition. The Commission pointed out that the segmentation policy adopted in Order No. 636 applied to capacity release transactions and that the Commission had not required pipelines to permit shippers to segment capacity for their own use. The Commission further sought comment on limitations on the ability to use flexible receipt and delivery points in segmented releases that had been accepted in pipeline restructuring proceedings under Order No. 636.

In some restructuring proceedings, the Commission permitted pipelines to restrict replacement shippers' ability to choose primary points based on historic tariff provisions that limited primary point rights to the same level as the shipper's mainline contract demand.[165] But even at that time, the Commission questioned whether those restrictions were justified.[166] Although the Commission accepted the restrictions, the Commission also sought to minimize the effect of the restrictions on the ability to engage in segmented releases by permitting releasing and replacement shippers in segmented releases to choose separate primary point rights. The Commission found that because the releasing and replacement shippers were both shippers on the system, they should both be able to choose primary points consistent with their mainline contract demand:

> The releasing and replacement shippers must be treated as separate shippers with separate contract demands. Thus, the releasing shipper may reserve primary points on the unreleased segment up to its capacity entitlement on that segment, while the replacement shipper simultaneously reserves primary points on the released segment up to its capacity on that segment.[167]

Under this *Texas Eastern/El Paso* approach, the releasing shipper could protect its New York delivery point right by choosing Atlanta as its primary receipt point and New York as its primary delivery point, while the replacement shipper designated its primary receipt point as the Gulf and Atlanta as its primary delivery point. In this example, neither releasing nor replacement shipper held contract demand in excess of their mainline rights. In other cases, where historic contract demand restrictions did not apply, the Commission allowed replacement shippers in all circumstances to change primary points without the releasing shipper losing its primary point rights.[168]

Most shippers strongly support the ability to segment capacity and to use flexible receipt and delivery points to enhance competition throughout the pipeline grid.[169] They contend that pipelines' implementation of segmentation policies vary, with some pipelines permitting no segmentation at all and with little consistency in the way pipelines treat segmented releases. Dynegy contends that differences in segmentation policy among pipelines

[164] Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation Under Part 284 of the Commission's Regulations, Order No. 636, 57 FR 13267 (Apr. 16, 1992), FERC Stats. & Regs. Regulations Preambles [Jan. 1991–June 1996] ¶ 30,939, at 30,428, 30,420–21 (Apr. 8, 1992), Order No. 636–A, 57 FR 36128 (Aug. 12, 1992), FERC Stats. & Regs. Regulations Preambles [Jan. 1991–June 1996] ¶ 30,950, at 30,559 n.151 (Aug. 3, 1992), Order No. 636–B, 61 FERC ¶ 61,272, at 61,997 (1992).

[165] *Compare* Transwestern Pipeline Company, 62 FERC ¶ a few,090, at 61,659, 63 FERC ¶ 61,138, at 61,911–12 (1993); El Paso Natural Gas Company, 62 FERC ¶ 61,311, at 62,982–83 (1993) (permitting pipelines to continue historic limitations on primary receipt point rights) *with* Northwest Pipeline Coporation, 63 FERC ¶ 61,124, at 61,806–08 (1993) (not permitting the pipeline to add such restrictions).

[166] Transwestern Pipeline Company, 62 FERC ¶ 61,090, at 61,659, 63 FERC ¶61,138, at 61,911–12 (1993).

[167] Texas Eastern Transmission Corporation, 63 FERC ¶ 61,100 at 61,452 (1993); El Paso Natural Gas Company, 62 FERC ¶ 63,311 at 62,991. *See also* Transwestern Pipeline Company, 61 FERC ¶ 61,332, at 62,232 (1992).

[168] *See* Northwest Pipeline Company, 63 FERC ¶ 61,124, at 61,806–08 n. 72 (1993).

[169] *See* Comments of AlliedSignal, AFPA, AGA, Columbia LDCs, Duke Energy Trading, Dynegy, Fertilizer Institute, IPAA, Market Hub Partners, Midland, NEMA, New England Distributors, NGSA, Nicor, PanCanadian, PSC of Wisconsin, Sithe, and Wisconsin Distributors.

has made it difficult to compete effectively on certain pipelines. It points out, for example, that on some pipelines, shippers can segment their capacity through the nomination process while other pipelines restrict segmentation to capacity release transactions, forcing shippers to release capacity to themselves in order to segment capacity. The shippers urge the Commission to clearly establish and standardize its segmentation policy.

INGAA supports the Commission's objective of implementing workable segmentation policies that broaden shippers' opportunities and increase competition. INGAA cautions, however, that any segmentation policy must be cognizant of the wide differences in pipeline configurations, some of which are less conducive to segmentation than others.[170] INGAA also recommends that the Commission adhere to its policy recently enunciated in *Tennessee*[171] that shippers do not have a right to release overlapping segments or to have the releasing and replacement shippers submit nominations that would have the effect of exceeding the contract demand of the original contract on any segment of the pipeline.

Shippers generally support a policy of permitting replacement shippers maximum flexibility to choose primary points in a segmented release that differ from those of the releasing shipper. In particular, they support the *Texas Eastern/El Paso* policy under which, in a segmented release, the replacement shipper is considered a new shipper who can choose primary receipt and delivery points from among the points available.[172] Some also support the position that, if a replacement shipper changes primary points, a releasing shipper should be able to regain its primary points after the release ends.[173] The pipelines generally oppose allowing segmented releases to expand primary receipt and delivery point rights on their systems or to permit the releasing and replacement shipper to hold more primary point capacity than the releasing shipper initially held.[174] Koch maintains that while the *Texas Eastern/El Paso* policy would work on some pipelines, it would not work on its system which is a reticulated or cancellated network without defined paths.

Although the Commission sought to ensure consistency during the restructuring proceedings under Order No. 636, the comments demonstrate that segmentation rights have not been implemented consistently across the pipeline grid. Accordingly, the Commission is adopting a regulation in new § 284.7(e) stating:

> An interstate pipeline that offers transportation service under subpart B or G of this part must permit a shipper to make use of the firm capacity for which it has contracted by segmenting that capacity into separate parts for its own use or for the purpose of releasing that capacity to replacement shippers to the extent such segmentation is operationally feasible.

This regulation will help achieve a more uniform and systematic application of segmentation rights across the interstate pipeline grid. Requiring pipelines to permit shippers to segment their capacity will increase the number of alternative capacity sources and therefore improve the competitiveness of the pipeline grid. The regulation further ensures a shipper's right to segment capacity for its own use as well as for release transactions. This will eliminate the inefficiencies present in the current system, such as shippers having to release capacity to themselves in order to segment their own capacity.[175]

Providing for more effective segmentation also is important in facilitating the development of market centers and liquid gas trading points. Without the ability to segment capacity, a shipper with firm-to-the-wellhead capacity on a long-line pipeline has an incentive to obtain gas from an upstream production area attached to the long-line pipeline, rather than at a downstream interconnect with another pipeline. Because the firm shipper has paid for upstream transportation in its demand charge, the shipper has to pay only a small usage charge to move gas from the production area to the shipper's delivery point. In contrast, if the shipper or its gas supplier does not hold firm capacity on the connecting pipeline, they would have to pay additional transportation charges for interruptible service or released capacity to move gas along the connecting route to the interconnect point. For example, if the price for gas at the upstream production area on the long-line pipeline is $2.00/MMBtu and the delivered gas price at the interconnect point is $2.15/MMBtu (with an implicit transportation value of $.15/MMBtu) and the firm shipper's usage charge is less than $.01/MMBtu, the shipper would save $0.14/MMBtu by purchasing gas at the upstream production area, rather than at the interconnect point.

Capacity segmentation, however, permits the shipper to release its capacity upstream of the market center for the market-determined value while retaining capacity downstream of that point in order to transport gas to market. In the prior example, the firm shipper's ability to release its upstream capacity for the market-determined value of $0.15/MMBtu would permit it to purchase gas for $2.15/MMBtu at the interconnect without suffering an economic loss. Segmentation, therefore, reduces the economic incentive to favor the pipeline on which the shipper holds firm capacity, making the development of a market center or gas trading point at the interconnect point more viable.

The regulation provides that segmentation must be permitted to the extent operationally feasible. This recognizes that, as INGAA points out, the configurations of some pipelines may make segmentation more difficult because these pipelines do not always provide straight-line paths. But the Commission expects a pipeline to permit segmentation to the maximum extent possible given the configuration of its system. Pipelines also need to make the process of segmentation as easy as possible, for example, by permitting segmentation to take place quickly and efficiently through the nomination process.

Pipelines will be required to make a *pro forma* tariff filing by May 1, 2000, showing how they will comply with this regulation. That filing must include whatever tariff changes are necessary for full compliance with the regulation or an explanation of how the pipeline's current tariff meets the requirements of the regulation. Pipelines claiming that all or any parts of their systems do not permit complete segmentation must demonstrate in their compliance filing why they must limit segmentation either to ensure service to other shippers or to ensure the operational integrity of their systems. Pipelines that are reticulated only in some portions of their system must permit full segmentation on the non-reticulated portion.

In the compliance filings, pipelines must provide operational justifications for restrictions on segmentation rights. As discussed above, some pipelines imposed restrictions on segmentation during the restructuring proceedings under Order No. 636 based on historic provisions in their tariffs. However, many of these historic tariff provisions

[170] *See also* Comments of Coastal, Koch, National Fuel.

[171] Tennessee Gas Pipeline Company, 85 FERC ¶ 61,052 (1998).

[172] *See* Comments of AFPA, AGA I, Amoco I, Consolidated Natural, National Fuel Gas Distribution, New England Distributors, Proliance, Reliant Energy, Sithe.

[173] *See* Comments of AGA I, Florida Cities, MichCon, Proliance, National Fuel Gas Distribution, and Sithe.

[174] *See* Comments of INGAA.

[175] *See* Comment of Dynegy.

date back to the pipelines' provision of merchant service and may no longer be justified for open access service provided in a more competitive market environment. In ruling on compliance filings, the Commission will not accept limitations on segmentation rights based solely on existing tariff conditions. Pipelines need to provide operational justifications for restricting the rights of shippers to effectively segment capacity and use flexible receipt and delivery points and must justify a proposal to deviate from the *Texas Eastern/El Paso* policy with respect to assignment of primary receipt and delivery points between releasing and replacement shippers.

2. Priorities for Capacity Within a Path

In Order No. 636, the Commission required pipelines to permit shippers to change receipt and delivery points or to use any receipt or delivery point within the zone for which the shipper pays as a secondary point with a priority greater than interruptible capacity. When pipelines implemented Order No. 636, they assigned priorities to the types of services they provide. The general practice was to accord the highest priority to capacity at primary points. Shippers using secondary points receive equal priority regardless of where their primary points are located in the zone, because the shippers are paying the same zone rate: shipper A, with a primary point upstream in the zone, has the same right to deliver to a downstream point in that zone as Shipper B with a primary point further downstream in the zone, even though shipper B's path goes past the secondary point, and shipper A's path does not. Thus, if the pipeline cannot serve all the nominations to secondary points, each shipper will receive a *pro rata* allocation of capacity. Interruptible capacity is assigned the lowest value.

A number of shippers contend that the Commission should adopt a regulation requiring that pipelines provide a shipper that is using a secondary point within its path a higher priority than a shipper in the same zone using a secondary point outside of its path (path approach).[176] Dynegy argues that where constraints occur, a shipper using a secondary point within its path may lose capacity because the pipeline curtails all secondary point nominations equally even though the pipeline could make a delivery to that secondary point. Dynegy contends that often the shipper with the priority path can still reach the upstream secondary point, but that it may have to pay the pipeline a fee for a backhaul to do so. Some pipelines also have proposed to provide higher priority to shippers within a primary path.[177] Koch and National Fuel, on the other hand, maintain that on their reticulated systems, shippers often do not have capacity paths and that, therefore, there cannot be a distinction between in-path and out-of-path secondary points.

The Commission has decided not to adopt the path approach as a generic policy. Providing priority to shippers within the path is not necessarily a more efficient allocation method than treating all shippers who pay the same rate equally. Capacity allocation is the most efficient when the capacity is allocated to the person placing the highest value on the capacity. In a perfect competitive environment, without transaction costs, the initial allocation of capacity among shippers will not matter because, through trading, capacity can be allocated to the highest valued user. Where transaction costs do exist, the goal of allocation should be to make the initial allocation to the party placing the highest value on obtaining the service in question. However, when dealing with the allocation of capacity to secondary points, there is no reason to believe that a shipper with a downstream primary delivery point necessarily places greater value on using a secondary point in the zone than a shipper paying the same rate with an upstream primary delivery point.

The real problem in allocating secondary receipt or delivery points in constraint situations is not with initial priority allocations, but with the pricing structure on pipelines. Pipelines charge all shippers within a zone the same rate even though many pipelines do not divide zones along constraint points: a single zone encompasses points upstream or downstream of the constraint. Thus, adoption of the path approach would require shippers paying for capacity in the upstream portion of the zone to pay the same rate as those shippers with capacity downstream of the constraint point, although the upstream shippers would, in many cases, be unable to reach points downstream of the constraint.

Because zones do not correspond with constraint points, adoption of the path approach also could result in difficulties in allocating primary point capacity. Shippers currently have an incentive to subscribe to the primary delivery points at which they most need gas, because nominations to primary points are accorded the highest scheduling priority. Under the path approach, however, all shippers within a zone will have an incentive to subscribe to a primary point as far downstream in the zone as they can even though the pipeline does not have sufficient capacity to satisfy all shippers' downstream requests for capacity. All shippers would have the incentive to move their primary points to the end of a zone because each shipper pays the same rate to subscribe to the downstream delivery point as its former upstream delivery point and, under the path approach, would obtain essentially the same priority to deliver to its former upstream delivery point as it would if it chose that upstream delivery point as its primary point. Meanwhile, by subscribing to the downstream primary delivery point, the shipper would obtain more valuable rights in the capacity release market because its path would go through the constraint point. As a consequence, adoption of the path approach could result in all shippers in a zone seeking to subscribe to downstream primary points even though the pipeline does not have sufficient capacity to provide all shippers with downstream capacity.

Making adjustments to secondary point priority, therefore, is not the most effective solution to the constraint problem. A more direct solution would be for the pipeline to revise its zone boundary so that the shipper upstream of the constraint point pays a lower rate than the shipper downstream of the constraint point.

Another approach to solving constraint issues is to design a capacity trading system for the future that improves upon the current system by permitting shippers to reallocate capacity rights after the pipeline has scheduled capacity and imposed whatever cuts may be applicable. For instance, if, due to constraints, the pipeline allocates capacity at secondary points on a *pro rata* basis, and the upstream shipper values the right to deliver to the secondary point more than the downstream shipper, an efficient capacity trading system would permit the upstream shipper to buy extra rights from the downstream shipper. Dynegy contends that, on some pipelines, shippers often are able to reach secondary delivery points even when the pipeline limits shipments to those points by paying to arrange a backhaul from their downstream primary delivery point to the upstream secondary delivery point. The

[176] *See* Comments of Dynegy, Enron Capital & Trade, Indicated Shippers, NEMA, National Fuel Gas Distribution, PanCanadian, PSC of Wisconsin, and Sithe.

[177] Panhandle Eastern Pipe Line Company, 87 F.E.R.C. ¶ 61,331 (1999).

Commission obviously cannot resolve the appropriateness of the pipeline's backhaul charge under the current system in this generic rulemaking. However, the payment of an added charge, either to the pipeline or to another shipper, might be appropriate to reflect the additional value the shipper places on the capacity if an efficient trading system were in place so there was effective competition to the pipeline's provision of a backhaul service.

Because some pipelines' reticulated systems do not provide shippers with capacity paths and because the path concept is not inherently a more efficient allocation system than the current system used on most pipelines, the Commission will not adopt a generic requirement that all pipelines adopt the path priority system. Issues relating to priority schemes on individual pipelines can be addressed in pipeline filings where all factors, such as zone boundaries, rate structures, and the effect of such changes on shippers and competition can be examined.

3. Confirmation Practices

The Commission is not adopting a generic regulation regarding pipeline confirmation practices. In the NOPR, the Commission asked if the current practices of pipelines in confirming gas flows across interconnect points between pipelines adversely affects capacity allocation. Confirmation refers to the practice by which a pipeline communicates with upstream and downstream parties (other pipelines, producers, LDCs, point operators) to determine whether a shipper submitting a nomination on its system will receive the nominated gas from the upstream producer or pipeline and whether the downstream pipeline or LDC is able to take delivery of that quantity of gas. If a nomination is not confirmed on either the upstream or downstream ends of the system, the shipper may not receive the amount of gas it has nominated.

The Commission requested comment on whether confirmation practices between interstate pipelines was affecting the allocation of primary and secondary capacity between pipelines. In particular, the Commission asked whether, when a constraint exists at an interconnect point, the general rule should be that the shipper with the higher priority on the downstream or take-away pipeline should receive priority.

The comments on this issue varied greatly. AGA advocates giving priority to the shipper on the downstream pipeline. Amoco argues priority should be given to the shipper on the upstream pipeline. Indicated Shippers argues that priority should be determined by the priority rules of the pipeline operating the interconnect point. NGSA contends the priority rule of the pipeline with the constraint should govern, but if the constraint is at the meter, then the priority rule of the party responsible for measurement at the meter should control. INGAA maintains that no changes in confirmation practices are necessary, since its companies report that very little gas flow has been affected by confirmation practices and no complaints have been made to the Commission about this issue. INGAA contends that, rather than favoring shippers with firm transportation either on the upstream or downstream pipeline, shippers should be responsible for contracting for primary or secondary firm capacity on both pipelines to assure their gas flows.

Given the lack of agreement among the industry and the paucity of complaints at this time, the Commission is not adopting a generic rule to govern confirmation at pipeline interconnects. However, the Commission agrees with INGAA's position that when pipelines do not have sufficient capacity at an interconnect to handle all nominations to that point, a shipper that has obtained firm capacity on both sides of an interconnect generally should have shipping priority over a shipper that is using interruptible transportation on one of the pipelines. If shippers believe that pipelines are not allocating capacity properly at interconnects, such problems can be handled individually through the complaint process.

C. Imbalance Services, Operational Flow Orders and Penalties

One of the fundamental purposes of this rule is to improve efficiency in the short-term market. The operational flow orders (OFOs) and penalties imposed by a pipeline to protect the integrity of the pipeline system are an area where improvements in efficiency can be achieved.

OFOs generally restrict service or require shippers to take particular actions. For instance, an OFO can reduce or eliminate tolerances for imbalances or contract overruns; institute severe penalties; or restrict intra-day nominations, the use of secondary receipt and delivery points, or firm storage withdrawals. Penalties are designed to deter shippers from creating imbalances, or from overrunning contract entitlements, and include penalties for physical imbalances (differences between commodity input and output), scheduling imbalances (differences between actual and scheduled quantities), and non-compliance with OFO and other tariff provisions.

While OFOs and penalties can be important tools to correct and deter shipper behavior that threatens the reliability of the pipeline system, the current system of OFOs and penalties is not the most efficient system of maintaining pipeline reliability. The manner in which pipelines impose OFOs and penalties often limits efficiency in the short-term market by restricting shippers' abilities to effectively use their transportation capacity. Shippers make purchasing decisions based on gas commodity prices in the market. OFOs can limit the ability of shippers to respond to prices in the market, undermining the fluidity of the commodity market. For example, an OFO that eliminates a secondary receipt point for a shipper may eliminate the shipper's access to alternate suppliers with the lowest priced gas, or force the shipper to points where it has no purchase or sales agreements. By eliminating or changing a transaction that otherwise would have taken place, an OFO can interfere with the liquidity of the commodity market.

Commission-authorized penalties provide an opportunity for shippers to engage in a form of penalty arbitrage, both across pipeline systems, and within a single pipeline system. Arbitrage across pipeline systems occurs where shippers intentionally overrun contract entitlements on those pipelines and LDCs that have the lowest penalties for contract overruns, and then flow gas to shippers on other systems with higher penalties, in an attempt to capture the economic gain of the difference in the level of penalties. In that situation, penalties skew the choices shippers might otherwise have made. The consequence is that, subsequently, pipelines in the area escalate their penalties to achieve the highest overrun/imbalance penalties. [178]

Penalty arbitrage on a single pipeline system involves pipelines' existing tariff provisions for remedying monthly imbalances of a shipper—often described as ''cash-outs.'' Under these provisions, shippers are allowed to cash-out net monthly imbalances using an average monthly price. That procedure invites shippers to game the system within the month. For example, a shipper may take more than it delivers when gas prices are higher than cash-out prices, and deliver more than it

[178] Panhandle Eastern Pipe Line Company, 78 FERC ¶ 61,202 at 61,876 (1997) (penalties ranging from $25 per Dth for variances of 5–10 percent to $200 for variances over 50 percent).

takes when gas prices are lower than cash-out prices. To the extent that pipelines rely on additional storage capacity to accommodate these imbalances, the arbitrage activity imposes costs on all shippers on the system through higher transportation rates that include more storage costs. In addition, at peak, arbitrage behavior may imperil systemwide reliability and trigger OFOs and emergency penalties that replace market forces with administrative rules.

In order to protect the reliability of their systems, many pipelines have responded to arbitrage on their systems by imposing stricter imbalance tolerances and higher penalties. High penalty levels often operate to limit and distort market forces. For example, the prospect of incurring high overrun and/or imbalance penalties, may cause shippers to fail to maximize their use of pipeline transportation, or to contract for more transportation capacity than they need.

The existence of arbitrage on and across pipeline systems indicates that in today's market, shippers are using penalties to achieve flexibility with respect to obtaining gas supplies and transportation capacity. In effect, shippers are treating the ability to overrun contract entitlements or create an imbalance as a ''service.'' Instead of buying gas or transportation, shippers are overrunning their contract entitlements, or taking more or less gas than they deliver, and paying cashouts and penalties, where that option is less expensive than purchasing gas or transportation directly. For example, by incurring an imbalance, a shipper is essentially borrowing gas from the pipeline, and the amount of the imbalance cash-outs and penalties are, in effect, the price for such borrowing. Indeed, during peak periods, the level of penalties can set the market price for gas since the maximum penalty level for overrunning a contract can set the maximum price that a shipper would pay for obtaining additional capacity.[179] In many cases, however, the amount of the penalty is unlikely to match the cost to the pipeline of providing this flexibility, so that other shippers must pay for some of the costs.

Since the penalty system is being used by shippers to indirectly gain needed flexibility, and engage in behavior that may be harmful to the system as a way to obtain such flexibility, the Commission finds that a general shift in Commission policy is warranted so that penalties are imposed only when needed to protect system integrity. Shippers need to be given tools that will enable them to reduce penalties without jeopardizing pipeline integrity, and shipper and pipeline incentives need to be properly structured to avoid the need to impose penalties. For example, simply because one shipper runs a positive imbalance, system integrity may not be jeopardized if other shippers run negative imbalances that offset the positive imbalance. The Commission has previously required pipelines in such situations to permit shippers to trade offsetting imbalances, which reduces the need for imbalance penalties while maintaining pipeline integrity.[180]

Another method of using market transactions to reduce the need for penalties is for pipelines or third-parties to enable shippers to avoid penalties by providing shippers with flexibility, directly, through the provision of separate imbalance management services, and to require the shippers who use that flexibility to pay for it. Thus, the Commission is refocusing its policy away from a ''command and control'' type of policy that fosters the use of OFOs and penalties to a ''service-oriented'' policy that gives shippers other options to obtain flexibility.

Under the new policy, pipelines will be required to provide imbalance management services, like parking and loaning service, and greater information about the imbalance status of shippers and the system, to make it easier for shippers to remain in balance in the first instance. Pipelines also will be required to permit third-parties to offer imbalance management services that will allow shippers to avoid imbalances. The use of these techniques will obviate the need for pipelines to rely on penalties to prevent or solve operational problems caused by shippers. This will allow penalties to be more narrowly crafted to focus on conduct that is truly detrimental to the system.

Equally as important as providing shippers with greater ability to avoid imbalances and penalties, is providing shippers with increased incentives to avoid imbalances and conduct harmful to the system. To this end, the Commission is encouraging pipelines to develop financial incentives for shippers to stay in balance, or to incorporate other types of incentives in the design of their imbalance management services. Replacing the negative incentive that penalties provide to deter behavior with more positive incentives to induce desirable shipper behavior will reduce imbalances and penalties, and may help alleviate gaming on pipeline systems.

Moreover, to effectively shift pipelines to the use of the non-penalty mechanisms described above to solve and prevent operational problems, it will be necessary to eliminate the pipelines' financial incentive to impose penalties and OFOs. Thus, the Commission is requiring pipelines to credit the revenues from penalties and OFOs to shippers.

More specifically, the Commission is revising its regulations governing standards for pipeline business operations and communications[181] to add three new provisions, concerning imbalance management, operational flow orders, and penalties, that establish several general policies designed to help shippers avoid penalties and OFOs, and help pipelines minimize their need for and use of penalties and OFOs. As described in more detail below, these provisions require pipelines to offer imbalance management services, to establish incentives and procedures to minimize the use of OFOs, to establish only those penalty structures and levels that are necessary and appropriate to protect the system, to credit penalty and OFO revenues to shippers, and to provide more imbalance information on a timely basis. To implement these new regulations, each pipeline will be required to make a *pro forma* compliance filing no later than May 1, 2000. In its filing, each pipeline must either propose *pro forma* changes to its tariff to implement the requirements discussed above, or explain how its existing tariff and operating practices are already consistent with, or in compliance with, the new requirements.

The policies set forth in the provisions below are the same general policies that the Commission proposed in the NOPR. There was considerable support among the commenters for the goals underlying the Commission's proposed policies.[182]

1. Policies Adopted by This Rule

a. Imbalance Management. The Commission is adopting a new subsection addressing imbalance

[179] *See* Industry Surveys the Damage as Winter's Strength Runs Out, Natural Gas Intelligence, April 22, 1996, at 1, 4 (penalty levels were a real factor in determining the price of gas during peak demand period in the Midwest).

[180] Standards For Business Practices Of Interstate Natural Gas Pipelines, Order No. 587–G, 63 FR 20072 (Apr. 23, 1998), III FERC Stats. & Regs. Regulations Preambles ¶ 31,062 (Apr. 16, 1998).

[181] These regulations appear in existing section 284.10, which the Commission is redesignating § 284.12.

[182] Comments of AEC, AF&PA, AGA, Columbia LDCs, Duke Energy, Dynegy, Exxon, Florida Cities, IPAA, Indicated Shippers, MichCon, Midland, NEMA, Philadelphia Gas Works, Process Gas Consumers, WGL, and Wisconsin Distributors.

management in its regulation governing the standards for pipeline business operations and communications. New § 284.12(c)(2)(iii), adopted herein, provides as follows:

(iii) *Imbalance management.* A pipeline must provide, to the extent operationally practicable, parking and lending or other services that facilitate the ability of its shippers to manage transportation imbalances. A pipeline also must provide its shippers the opportunity to obtain similar imbalance management services from other providers and shall provide those shippers using other providers access to transportation and other pipeline services without undue discrimination or preference.

This provision establishes the policy that pipelines must provide to shippers, to the extent operationally feasible, imbalance management services, such as park and loan service, swing on storage service, or imbalance netting and trading. As part of this policy, the Commission specifically encourages the use of auctions for shippers to trade imbalances so that they can avoid the imposition of unnecessary penalties. In addition, under this policy, pipelines will not be permitted to give undue preference to their own storage or balancing services over such services that are provided by a third party. The Commission is requiring pipelines to include these imbalance management services as part of their tariffs.

The Commission expects pipelines to provide as many different imbalance management services as is operationally feasible, and to work to develop new, innovative services that help shippers manage or prevent imbalances. In order to give pipelines an incentive to develop these new imbalance management services, the Commission is not changing its current policy that pipelines may retain the revenues from a new service initiated between rate cases. In addition, the Commission particularly encourages pipelines to design imbalance management services that will give shippers a built-in incentive to utilize the service, or to otherwise stay in balance. Pipelines are also urged to create positive financial inducements for shippers to remain in balance or avoid behavior that is harmful to the system, rather than the negative incentives provided by penalties.

The Commission in Order No. 587–G has already taken a first step toward increasing shippers' abilities to manage imbalances by requiring that every pipeline: (a) Allow firm shippers to revise nominations during the day (thereby reducing the probability of imbalances caused by inaccurate nominations); (b) enter into operational balancing agreements at all pipeline to pipeline interconnections; (c) permit shippers to offset imbalances across contracts and trade imbalances amongst themselves when such imbalances have similar operational impact on the pipeline's system; and (d) provide notice of OFOs and other critical notices by posting the notice on their Internet web sites.[183] The other actions the Commission is taking in this rule will also help shippers avoid imbalances and penalties, and reduce the need for OFOs. For example, shippers will have an alternative means of acquiring capacity during peak periods, other than overrunning their contract entitlements and incurring unauthorized overrun penalties, now that the Commission is removing the price cap from released capacity.

However, many pipelines currently do not offer effective imbalance management services, such as swing on storage or parking and loaning services. Other pipelines already offer some imbalance management services, but could improve upon them, or supplement them with additional imbalance management services, to the extent operationally feasible. The ready availability of imbalance management services will make it easier for shippers to stay in balance and avoid causing operational problems. Thus, a further expansion of the number of services available on each pipeline that facilitate a shipper's ability to manage imbalances will significantly increase shippers' ability to avoid imbalances, and correspondingly reduce the need for pipelines to impose penalties.

Moving towards a system where customers pay directly for imbalance management services will impose the costs of those services on those shippers needing the service, minimizing the impact on other customers that require less flexibility. Thus, it should shift costs that are now collected from all shippers through general transportation charges to those shippers that most require the needed flexibility.

However, pipelines will not be permitted to implement the new imbalance services until they also implement imbalance netting and trading on their systems. Pipelines should not expect shippers to purchase new services until the shippers can determine whether imbalance trading will be adequate for their needs. Thus, the implementation of the new imbalance management services must coincide with the implementation of imbalance netting and trading. Since GISB has already approved business practice standards for imbalance netting and trading, pipelines should be able to implement imbalance netting and trading at the same time that they implement the new imbalance management services.

This policy is the same policy proposed in the NOPR. Various commenters offered their support for this principle, urging the need for pipelines to offer imbalance management solutions prior to imposing penalties.[184] The little opposition to this principle comes from INGAA, and several pipelines who maintain that no changes at all are needed to the Commission's penalty policy.[185] INGAA maintains that a policy requiring pipelines to provide imbalance management services is unnecessary given that pipelines must provide such services to stay competitive with those pipelines that already provide such services.[186] Williston Basin states that services such as park and loan service do not need to be mandated by the Commission. It asserts that the need for, and implementation of, imbalance management services should be between the pipeline and its shippers. Williston Basin argues that having the Commission require a ''cookie-cutter'' imbalance management service for all pipelines will not provide the best imbalance service for a specific pipeline.[187]

The Commission finds that requiring pipelines to provide imbalance management services, to the extent operationally feasible, is a key step in creating a policy that focuses more on providing flexible service options, minimizing the need for OFOs and penalties. The availability of imbalance management services is critical for providing many shippers with the flexibility they need to avoid or correct imbalances, which in turn obviates the need for pipelines to impose OFOs and penalties. The Commission must require pipelines to provide imbalance management services, despite the competitive incentive INGAA states pipelines already have to provide these services, since an incentive to provide

[183] Standards For Business Practices Of Interstates Natural Gas Pipelines, Order No. 587–G, 63 FR 20072 (Apr. 23, 1998), III FERC Stats. & Regs. Regulations Preambles ¶ 31,062 (Apr. 16, 1998). GISB's Executive Committee approved business practice standards for trading and netting of imbalances at its July 15–16, 1999 meeting, however the electronic standards have yet to be finalized. *Http://www.gisb.org/ec.htm* (Nov. 15, 1999).

[184] Comments of AF&PA, AlliedSignal, Amoco, Dynegy, FPL, Indicated Shippers, IPAA, and Shell.

[185] Comments of INGAA, Williston Basin, and Koch.

[186] Comments of INGAA at 107.

[187] Comments of Williston Basin at 35.

such services alone will not guarantee that each pipeline will in fact provide the services. However, to the extent pipelines are already motivated to provide imbalance management services to remain competitive, compliance with the requirement in this rule that pipelines offer such services should not be particularly difficult or burdensome.

With respect to Williston Basin's argument that the choice whether to provide imbalance management services and how to do so are business decisions that the Commission should allow each individual pipeline to make, the Commission stresses that by requiring pipelines to offer imbalance management services, the Commission is not dictating which services, or how many services, a pipeline must provide. Much of the decisionmaking, including whether the provision of such services is operationally practicable, is still left to the pipeline and its shippers. Also, the Commission is not dictating the exact details of these services for each pipeline, so that contrary to Williston Basin's understanding, the Commission is not imposing a one-size-fits-all imbalance management service on pipelines.

b. Operational Flow Orders. The Commission is adopting another new subsection in § 284.12(c)(2) of its regulations to govern OFOs. New § 284.12(c)(2)(iv), adopted herein, provides as follows:

(iv) *Operational flow orders.* A pipeline must take all reasonable actions to minimize the issuance and adverse impacts of operational flow orders (OFOs) or other measures taken to respond to adverse operational events on its system. A pipeline must set forth in its tariff clear standards for when such measures will begin and end and must provide timely information that will enable shippers to minimize the adverse impacts of these measures.

This provision establishes the policy that each pipeline must adopt incentives and procedures that minimize the use and potential adverse impact of OFOs. The imposition of OFOs may severely restrict the purchase and transportation alternatives available to a customer during peak periods, precisely when such alternatives are critically needed to enhance the opportunities of a shipper to purchase such services at the lowest competitive prices. Under current practice, pipelines have incentives to favor OFOs as the first option, not the last resort. The pipeline is likely to err on the side of using an OFO, because it bears the risk that if it does not, curtailment of load may result that could in turn precipitate strong public disapproval and law suits from firm customers. In contrast, shippers—not pipelines—bear the costs that result from imposition of OFOs. A pipeline could also prefer OFOs because it would limit or eliminate a shipper's ability to purchase transportation that would be in lieu of transportation services provided by that pipeline. In some cases, shippers have complained that OFOs have been issued too frequently, for too long, and were larger in scope than required to protect the integrity of system operations.[188]

In light of these considerations, it is appropriate to require the revision of existing pipeline tariffs to ensure that the imposition and adverse impact of OFOs are reduced to the maximum extent practicable.[189] Many commenters favored this proposal in the NOPR to make each pipeline's tariff conform to this standard.[190] Therefore, to implement this policy, the Commission is requiring each pipeline to revise its tariff in the following respects, to the extent necessary.

First, each pipeline's tariff must state clear, individual pipeline-specific standards, based on objective operational conditions, for when OFOs begin and end. This will enable shippers to better anticipate in advance, based on market conditions, when OFOs are likely to be in effect and to plan their business affairs accordingly.

Second, the tariff must require the pipeline to post, as soon as available, information about the status of operational variables that determine when an OFO will begin and end. For example, if an OFO will remain in effect until repairs are completed on a compressor, the pipeline must be required to update shippers on the status of the repairs.

Third, the tariff must state the steps and order of operational remedies that will be followed before an OFO is issued to assure that the OFO has the most limited application practicable and to limit the consequences of its imposition. For example, one requirement would be that a pipeline provide as much advance warning as possible of the conditions that may create an OFO and the specific OFO itself that would allow customers to respond to such conditions and/or prepare alternative arrangements in the event the OFO is implemented.

Fourth, the tariff must set forth standards for different levels or degrees of severity of OFOs to correspond to different degrees of system emergencies the pipeline may confront. For example, a large OFO penalty may be appropriate in severe cases, whereas a small OFO penalty may be appropriate in others.

Fifth, the tariff must establish reporting requirements that provide information after OFOs are issued on the factors that caused the OFO to be issued and then lifted. This requirement is in addition to the existing requirement that pipelines provide notice of OFOs and other critical notices by posting the notice on the pipelines' Internet web sites and by notifying the affected customers directly.[191]

A few commenters request that the Commission refrain from requiring pipelines to adopt tariff provisions designed to curb the use of OFOs. Enron Pipelines state that OFOs are a vitally important tool to effect operational changes by specific shippers causing problems, and are not designed to assess penalties.[192] Enron Pipelines believe that the potential for operating conflicts among shippers will only increase in the future, making OFOs increasingly important. Enron Pipelines argue that by requiring a pipeline to take all reasonable actions to minimize the issuance of OFOs, the Commission is essentially saying that it prefers that the pipeline take systemwide measures, such as the purchase of line pack gas, or the operation at reduced capacity levels, rather than the narrowly targeted solution of an OFO. Enron Pipelines do not believe that is the Commission's intent.

The requirement that pipelines establish standards and procedures for the imposition of OFOs, and the Commission's guidance to pipelines in that effort, is not meant to prevent pipelines from issuing OFOs where necessary, as Enron apparently believes. However, while the Commission is not committing pipelines to take systemwide measures to resolve operational problems, in some instances, it could be more appropriate to take actions other than issuing a specific OFO.

Williams, also, maintains that no major policy changes are needed regarding OFOs.[193] It asserts that any OFO problems are confined to only a few systems, and are not industry-wide.

[188] *See, e.g.,* NorAm Gas Transmission Company, 79 FERC ¶ 61,126 at 61,546–47 (1997); Southern Natural Gas Company, 80 FERC ¶ 61,233, at 61,890 (1997) Northern Natural Gas Company, 77 FERC ¶ 61,282 (1997); Panhandle Eastern Pipe Line Company, 78 FERC ¶ 61,202 (1997); Northwest Pipeline Company, 71 FERC ¶ 61,315 (1995).

[189] The requirement in this rule that pipelines automatically credit OFO penalty revenues to shippers will also help limit any incentive for the pipeline to use an OFO to generate revenues.

[190] Comments of AF&PA, AGA, Florida Cities, Indicated Shippers, IPAA, MichCon, Midland, NEMA, Proliance and Shell.

[191] Redesignated § 284.12(c)(3)(vi).

[192] Comments of Enron Pipelines at 48–50.

[193] Comments of Williams at 21–23.

Therefore, Williams suggests that rather than requiring pipelines to revise their existing OFO provisions, the Commission should monitor the frequency of OFOs on individual pipelines. Then, Williams states, if a pipeline frequently issues OFOs, a proceeding could be established to determine if changes are necessary to that pipeline's tariff. INGAA, as well, agrees with a pipeline-specific approach.[194]

The Commission disagrees with Williams that it is not necessary at this time to require all pipelines to develop OFO standards. The Commission is not requiring all pipelines to adopt the same, generic standards. The Commission is requiring OFO guidelines on an individual pipeline basis to allow each pipeline to devise a set of OFO procedures that are specific to its system, and that may take into account the pipeline's OFO track record. These guidelines will help limit the imposition of OFOs to only those that are necessary, as well as limit the incurrence and duration of necessary OFOs, so that shippers can rely more on market forces in making their decisions. However, the Commission may, in the future, decide also to monitor the frequency of OFOs on individual pipelines, and thereafter institute proceedings to determine if further tariff changes are warranted for particular pipelines, as Williams suggests. With respect to INGAA's concern, the guidelines set forth in this rule will not prevent pipelines from determining what OFO standards are appropriate for their systems, or from issuing OFOs where necessary.

c. Penalties. Finally, new §284.12(c)(2)(v), governing penalties and adopted herein, provides as follows:

(v) *Penalties.* A pipeline may include in its tariff transportation penalties only to the extent necessary to prevent the impairment of reliable service. Pipelines may not retain net penalty revenues, but must credit them to shippers in a manner to be prescribed in the pipeline's tariff. A pipeline must provide to shippers, on a timely basis, as much information as possible about the imbalance and overrun status of each shipper and the imbalance of the pipeline's system.

This new provision establishes three general principles with respect to penalties. First, penalties are not required, but to the extent that a pipeline assesses penalties, they must be limited to only those transportation situations that are necessary and appropriate to protect against system reliability problems. The Commission has authorized extremely high overrun and imbalance penalties for several pipelines on the basis that doing so was required to protect system integrity.[195] However, the Commission finds that there is not necessarily a connection between the high level of authorized penalties and the level that is necessary to ensure system reliability. By requiring that all penalties be necessary to prevent the impairment of reliable service, the Commission is requiring pipelines to narrowly design penalties to deter only conduct that is actually harmful to the system.

Also, the Commission is aware that some pipelines have penalties that are at the same level during peak and non-peak periods and may be imposed regardless of whether the pipeline is faced with emergency conditions.[196] Non-critical day penalties, or penalties imposed during off-peak periods, may not be the most appropriate and effective to protect system operations. Establishing a principle that all penalties must be necessary for reliable system operations will help ensure that penalties are appropriately drawn and tailored to reflect the potential harm to the system. Therefore, in the compliance filing to implement this principle, the Commission directs all pipelines to either explain or justify their current penalty levels and structures under these standards, or revise them to be consistent with this principle.

In cases in which penalties are needed to protect against harm to the pipeline system, the requirement that pipelines provide imbalance management services and permit third-parties to offer such services provides shippers with the flexibility to avoid conduct harmful to the system and penalties associated with such conduct. Thus, pipelines should be able to recraft their current broad penalty provisions in ways that directly focus on harm to the system and do not encourage the use of penalties as a substitute for obtaining services. As an example, pipelines may be able to change the methods by which they cash-out imbalances to eliminate the incentives for shippers to borrow gas from the pipeline because the cash-out price is less than the market price for gas. Rather than borrowing gas from the pipeline and paying the cash-out price, shippers can more directly obtain the flexibility they need by directly purchasing a parking and lending service from the pipeline or a third-party.

Second, new § 284.12(c)(2)(v) establishes the policy that a pipeline may not retain the revenues from penalties, but must credit them to shippers. The Commission is requiring pipelines to automatically credit all revenues from all penalties, net of costs, including imbalance, overrun, cash-out, and OFO penalties, to shippers. Ideally, penalty revenues should be credited only to non-offending shippers so that offending shippers are not able to recoup the penalties they have paid, and thus, shippers are given a positive incentive to avoid incurring penalties. It is possible for pipelines to construct penalty revenue crediting mechanisms that exclude shippers who were assessed the penalty from the revenue credits.[197] However, the Commission recognizes that for some pipelines it may be difficult to develop or implement such a penalty revenue crediting mechanism. Thus, the Commission will not prescribe on a generic basis the details of the revenue crediting mechanism, including which shippers will receive the penalty revenue credits. Instead, the Commission will permit each pipeline to formulate an appropriate method for implementing penalty revenue crediting on its system. Pipelines should include the detail of their revenue crediting mechanism in the *pro forma* tariff filings, discussed *infra,* that the Commission is requiring pipelines to make to comply with this new rule.

The Commission's policy has been to allow pipelines to retain penalty revenues until the next rate case, and then to permit penalty revenues to be taken into account in the rate case when developing a pipeline's revenue requirement. The theory underlying the Commission's policy was that a properly designed penalty deters violations, and thus, there should be little or no penalty revenues to credit. This rationale was upheld by the U.S. Court of Appeals for the D.C. Circuit in *Pennsylvania Office of Consumer Advocate* v. *FERC.*[198] There, the court rejected a claim that the pipeline should be required to credit back all penalty

[194] Comments of INGAA at 109–112.

[4] Regulation of Natural

[195] *See, e.g.,* Northern Natural Gas Company, 77 FERC ¶ 61,282, at 62,236 (1997); Panhandle Eastern Pipe Line Company, 78 FERC ¶ 61,202, at 61,876–77 (1997), *reh'g denied,* 82 FERC ¶ 61,163 (1998).

[196] *See* Tennessee Gas Pipeline Company, 81

[197] For example, under Northwest Pipeline Corporation's penalty revenue crediting mechanism, Northwest credits penalty revenues monthly only to shippers who were not assessed a penalty. *See* section 14(g) of the General Terms and Conditions of Northwest's tariff. Fourth Revised Sheet No. 232–D and Second Revised Sheet No. 232–E, third Revised Volume No. 1 of Northwest's FERC Gas Tariff.

[198] Pennsylvania Office of Consumer Advocate v. FERC, 131 F.3d 182 (D.C. Cir. 1997), *modified on other grounds,* 134 F.3d 422 (D.C. Cir. 1998) (*Pennsylvania*).

revenues to non-offending shippers, where in the prior year, no penalties had been assessed under the penalty rate at issue. The court agreed with the Commission that based on such circumstances, ''the mere possibility of revenue gains'' did not ''justif[y] a prospective requirement that the revenues be credited to customers.'' [199]

However, the prospect of retaining revenues from penalties offers an incentive for pipelines to propose or implement inappropriate penalties and OFOs that can hinder efficiency and competition. Also, to the extent the penalty revenues are not reflected in rates, since pipelines are no longer required to file rate cases on a periodic basis, the penalty provisions have had the ability to result in profit centers for the pipelines. [200]

Given the Commission's new emphasis in this rule on providing services to facilitate shippers' ability to avoid imbalances and penalties and providing inducements to shippers to remain in balance, rather than on penalties, the Commission does not expect that significant revenues will be generated from penalties. However, to the extent that penalty revenues are generated, the required crediting of penalty revenues will eliminate any economic incentive for pipelines to rely on penalties rather than inducements. The Commission is requiring penalty revenue crediting not so much for the purpose of preventing penalties from becoming a profit center, but more for the purpose of eliminating any financial incentive on the part of pipelines to impose penalties that would naturally hinder the pipelines' movement toward reliance on the provision of imbalance services, greater imbalance information, and shipper incentives.

In addition, requiring pipelines to credit penalty revenues to shippers also responds to concerns that the court had subsequent to its *Pennsylvania* decision, in *Amoco* v. *FERC,*[201] about allowing pipelines to retain penalty revenues. In *Amoco* v. *FERC,* the court found that the Commission had not adequately supported its finding that the proposed increase in the penalty level would not provide the pipeline with significant penalty revenues, especially where the pipeline had collected $1.8 million in overrun penalty revenues in the year prior to the pipeline's filing. The court remanded the case to the Commission for an explanation of how its decision to permit the pipeline to retain the penalty revenues and not require penalty revenue crediting is consistent with the NGA. Requiring the crediting of penalty revenues to shippers in this case will eliminate the potential for pipelines to receive penalty revenue windfalls, and consequently, the court's concern.

In the NOPR, the Commission suggested the crediting of penalty revenues as one of a number of options that could help pipelines to impose only necessary and appropriate penalties. The idea of crediting penalty revenues garnered much support in the comments.[202] However, a few parties are opposed to revenue crediting because they contend that no changes at all are necessary to the Commission's policies on penalties and OFOs.[203] They assert that the current penalty tariff provisions have been carefully crafted by pipelines and their customers, meet each pipeline's operational needs, and deter inappropriate conduct.

The Commission disagrees. Allowing pipelines to retain penalty revenues gives pipelines the wrong incentives for the design and imposition of penalties, and provides no incentive for the pipeline to develop other, non-penalty mechanisms that would give shippers incentives to control their imbalances. As stated above, the crediting of penalty revenues eliminates the pipelines' financial incentive to use and impose penalties.

Third, § 284.12(c)(2)(v) establishes the requirement that pipelines provide to shippers, on a timely basis, as much information as possible about the imbalance and overrun status of each shipper and the imbalance of its system as a whole. Under this policy, pipelines will be required to distribute to shippers the information that they currently have available on deliveries and imbalances at each shipper's delivery point, as well as on system imbalances. However, the Commission is not requiring pipelines to install upgraded, real time meters at receipt and delivery points.[204] In other words, the requirement that pipelines provide as much imbalance information as possible is not meant to require that pipelines make an investment in additional metering equipment. The Commission will leave the decision of when and where to install upgraded metering to the pipeline and individual shippers, based on their own economic and operational judgment. The Commission will continue the current policy of permitting pipelines and their shippers to address these cost issues as they arise, *i.e.,* in general rate cases or, as provided in the pipelines' tariffs. At this time, no change in this aspect of the Commission's policy is necessary.

The pipelines must disseminate the available imbalance information on a timely basis, so that shippers will have a reasonable opportunity to avoid penalties. The Commission will require pipelines to establish a system that notifies each shipper individually of the imbalance/delivery information that the pipeline possesses, or to give shippers access to such information via the Internet. The pipelines, however, may post relevant system imbalance information more generally. The obligation that such information be provided on a timely basis will vary from pipeline to pipeline, depending on the pipeline's penalties. For example, a pipeline that imposes imbalance penalties only on a monthly basis would have a different obligation to provide imbalance information to its shippers than a pipeline that imposes daily imbalance penalties.

Providing imbalance information on a timely basis will enhance the opportunities of a shipper to avoid penalties and help prevent penalty situations. Information on the precise level of a shipper's deliveries and imbalances will help the shipper avoid overruns and imbalances, and maximize the use of its transportation rights on the pipeline system. Providing such information might also allow pipelines to reduce the level of penalty-free tolerances and to thus reduce system costs (*e.g.,* storage capacity to provide such tolerances). Finally, such information, together with information on system imbalances, will facilitate the trading of imbalances and capacity, or other self-help measures, that in turn could alleviate or prevent conditions that imperil system integrity.

Under the regulations adopted in this rule, pipelines will only be able to impose penalties to the extent necessary. This requirement may result in either no penalties for non-critical days or higher tolerances and lower penalties for non-critical as opposed to critical days. To the extent that pipelines generally justify the imposition of penalties for non-critical days, the pipeline should not impose such penalties on shippers where the existing metering equipment does not

[199] *Id.,* 131 F.2d at 187.

[200] FERC Form No. 2 data indicate that gross penalty revenues from the 15 pipelines that attributed revenue to penalties amounted to approximately $24.3 million in 1996, $9.6 million in 1997, and $5 million in 1998. This reduction in gross penalty revenues may simply be a reflection of the relatively mild winters that have occurred in the past few years.

[201] 158 F.3d 593 (D.C. Cir. 1998).

[202] Comments of AGA, Dynegy, FPL, Indicated Shippers, Louisville, Minnesota, NASUCA, Nicor, Penn. PUC, process Gas Consumers, and PSC of Wisconsin.

[203] Comments of INGAA, Koch, Williams, and Williston Basin.

[204] This is consistent with the NOPR proposal.

provide the shipper with sufficiently accurate information about its imbalance status so that the shipper can take actions to avoid the penalty. During non-critical periods, to the extent a pipeline can justify having a penalty at all, the pipeline will only be allowed to impose penalties in time frames comparable to the information it collects and disseminates to shippers, and for which reasonable notice and opportunity to cure overruns and imbalances is given. For example, if shippers are given information about their overrun and imbalance status on a daily basis, daily tolerances and penalties may be adopted. However, if shippers are given this information only on a monthly basis, only monthly penalties may be imposed. This approach will provide the pipeline with the appropriate incentive to install upgraded metering equipment if controlling imbalances at the point in question is important to the operation of its system.

During critical operating periods, however, the Commission will still permit pipelines to impose penalties on shippers when real-time metering, and/or timely reporting of shippers' imbalance status is not available. The need to maintain system integrity during critical days is of sufficient importance that the Commission does not want to limit the pipelines' ability to deter conduct that may be harmful to other shippers even if it cannot provide current information.

The Commission proposed this restriction as one of two options for addressing situations where, at particular receipt or delivery points, the pipeline might not have the type of metering and related equipment that would provide the shipper with timely information on its deliveries and imbalances. A number of commenters supported this option.[205] The other option presented in the NOPR was to require the pipeline to install equipment sufficient to provide shippers at those points with timely information on imbalances and deliveries. Many commenters opposed that option because it raises difficult issues, such as who should pay the costs of purchasing and installing the equipment. Requiring the pipeline to install adequate metering equipment at those points is inconsistent with the Commission's determination not to require upgraded metering equipment at all points. The Commission is not adopting this option.

While a significant percentage of the commenters support requiring pipelines to provide, on a timely basis, as much information as possible on imbalances and overrun status of each shipper, and system imbalance status,[206] several commenters object to the Commission's requiring pipelines to provide ''as much information as possible.'' National Fuel argues that this standard is nebulous, and is likely to result in the posting of much useless information. National Fuel requests that the Commission modify the proposed policy to require that pipelines ''provide, on a timely basis, a quantification of the imbalance and overrun status of each shipper and the imbalance of the pipeline's system.'' [207] Williston Basin maintains that the Commission should not require pipelines to provide as much volume information as possible, but should require pipelines to provide appropriate volume information on a net benefit basis and the relevance of the volume information to the specific pipeline and its shippers.[208] Consolidated Natural states that the language of the new provisions suggests that a pipeline must have real time measurement equipment in place.[209] It asserts that pipelines' existing business, measurement and computer systems cannot manage the calculation of more detailed or more timely information.

The Commission is requiring the provision of only as much information as the pipelines already have available on shippers' imbalance and overrun status, and on system imbalance status. The Commission reiterates that it is not requiring that pipelines upgrade their existing business, measurement, and computer systems to provide this information. Also, the Commission does not wish to limit this information to a quantification of the shippers' imbalance and overrun status, and system imbalance status. There may be other information about imbalances, particularly with respect to system imbalances, that pipelines have available that could aid shippers in planning their actions and avoiding imbalances and penalties.

Atlanta, also, has a concern with the Commission's requirement that pipelines provide timely imbalance information.[210] Atlanta asserts that increasing the amount of information available to shippers will not be sufficient to prevent shippers from incurring imbalances unless shippers have the appropriate incentives to avoid imbalances. Atlanta believes that shippers currently have the ability to control their imbalance activity, but choose not to because they find it economically beneficial to game the system. Atlanta supports requiring pipelines to provide as much information as possible, but only in conjunction with the provision of incentives for shippers to remain in balance. Further, Atlanta maintains that forbidding pipelines to impose imbalance penalties during non-critical periods where the pipeline has failed to notify the shipper of the imbalance situation will exacerbate the imbalance problem by removing disincentives for shippers to incur imbalances.

The Commission agrees with Atlanta that the existence of proper incentives for shippers to avoid imbalances is of paramount importance. The policy being adopted here, focused on avoiding penalties and reducing the need for penalties, is intended precisely to promote such incentives. The measures the Commission is taking here are designed to move the pipeline away from the use of negative incentives—penalties and OFOs—to the use of positive incentives to control shipper behavior. It is up to the pipeline to develop such positive incentives. However, the Commission's actions here are laying the groundwork for, and will facilitate, the pipelines' efforts in this direction. For example, by requiring pipelines to offer imbalance management services, the Commission is prompting pipelines to become creative in developing such services that may not only make it easier for pipelines to avoid imbalances, but may also provide built-in incentives for shippers to stay in balance. Also, the provision of timely information of shipper and system imbalance status, together with the pipeline's ability to establish appropriate imbalance penalties, should in and of itself produce good incentives for shippers to stay in balance.

The Commission does not agree with Atlanta, however, that forbidding pipelines from imposing non-critical day penalties where the pipeline has failed to notify the shipper of the imbalance strips away shipper incentives to comply with tariff requirements. To the extent that pipelines continue to use a negative incentive, such as a penalty, to encourage shippers to remain in balance and deter behavior, it is a matter of basic fairness that the pipeline give notice of the imbalance situation and the opportunity to cure the imbalance prior

[205] Comments of Florida DMS, Louisville, NGSA, Process Gas Consumers, and TransCanada.

[206] Comments of AlliedSignal, Florida Cities,NEMA, NGSA, Paiute, Process Gas Consumers, PUC of Ohio, Dynegy, and PSC of Wisconsin.

[207] Comments of National Fuel at 5.

[208] Comments of Williston Basin at 35.

[209] Comments of Consolidated Natural at 25–26.

[210] Comments of Atlanta at 17–18.

to imposing a penalty that is not critical to operations.

2. Future Consideration of Penalty and OFO Issues

The Commission is adopting the general policies set forth above as an initial step toward increasing shipper flexibility to avoid penalties, and minimizing the need to impose penalties. However, in the NOPR, the Commission sought comment on a variety of options for implementing and expanding these general policies. For example, the Commission requested comment on whether more appropriate penalties might result from establishing uniform penalties and OFOs across pipelines on a national or regional basis, revising pipelines' cash-out procedures, or establishing a ''no-harm, no-foul'' policy that would permit beneficial imbalances to escape penalties. The comments to the NOPR produced no strong consensus on most of the specific options that the Commission presented for implementing and expanding the general policies.

As a result, while it is appropriate to take a modest step toward remedying the inefficiencies caused by penalties and OFOs through the adoption of the general policies, it is premature, without additional study and examination of the market, to undertake the more ambitious policies presented as options in the NOPR, or many of the detailed suggestions for a revised Commission policy on penalties that the commenters presented.[211] The Commission recognizes that they may hold promise for the future. Thus, the Commission will continue to monitor the natural gas market and the role penalties play in that market, as the industry responds to the initial changes being adopted in this final rule to the Commission's penalty and other policies, and to the GISB standards for imbalance management recently put into place. In the event that the inefficiencies associated with penalties and OFOs persist, the Commission will revisit whether the more comprehensive and innovative policy changes are necessary.

To facilitate the Commission's consideration of additional, more significant changes in the Commission's penalty policy, if necessary after some experience under the rules adopted here, the Commission or its Staff may convene an industry-wide conference to examine the need for further generic reform of the industry's penalty standards. Such a conference would explore whether there are commodity arbitrage problems on individual systems and gaming across pipelines and LDCs due to different penalty levels, and whether it is feasible to set penalties and OFO standards on a regional or national basis.

IV. Reporting Requirements for Interstate Pipelines

The free flow of information regarding the natural gas market is critical to the successful creation of a competitive and efficient marketplace. Access to relevant information is necessary for shippers to make informed decisions about capacity purchases, and for the Commission and shippers to monitor transactions to determine if market power is being exercised. Also, as competition is improved in the natural gas marketplace by the changes the Commission is making in this final rule, the ready availability of information will become increasingly important, both for efficient trading and for the monitoring for the exercise of market power.

The market needs several different types of information, both for decision-making and monitoring purposes: information on capacity transactions, such as rates, contract duration, and contract terms; information on the structure of the market; and information on capacity availability. Transactional information provides price transparency so shippers can make informed purchasing decisions, and also permits both shippers and the Commission to monitor actual transactions for evidence of the possible abuse of market power. Information on market structure enables shippers and the Commission to know who holds or controls capacity on each portion of the pipeline system, so the potential sources of capacity can be determined. Information on the amount of capacity available at receipt and delivery points and on mainline segments, as well as on the daily amount of capacity that pipelines schedule at these points, helps shippers structure gas transactions and casts light on whether shippers or the pipeline may be withholding capacity.

The Commission's current regulations already require the reporting and maintenance of much of the necessary information.[212] However, the information required by the existing regulations gives market participants and the Commission an uneven picture of the market because the reporting requirements are different for competing types of capacity, both in terms of the content of the information and the formats used to report the information. For instance, pipelines are required to post detailed information on capacity release transactions, including the releasing and replacement shipper names, the rate paid, and points covered by the release, when the transactions occur.[213] In contrast, pipelines are only required to file limited information on their discount transactions well after the transaction has taken place.[214] In addition, some information needed to enable shippers to effectively make capacity decisions and monitor the market is not currently required by the existing regulations, such as certain point-specific data.

Therefore, the Commission is revising its reporting requirements in a few main respects to improve the availability and usefulness of the information currently reported. First, the Commission is changing and consolidating the reporting formats in which it collects the information, including the time frames within which information is reported, to enable the Commission to equalize the reporting requirements for capacity release transactions and pipeline transactions, and to simplify the overall reporting system. The new reporting system reduces the amount of periodic reporting to the Commission currently required, and instead relies on Internet posting and maintenance of information. Second, the Commission is adding certain data to the information that is already collected on pipeline transactions, the structure of the market, and capacity availability in various reporting formats. Specifically, the most significant additional information being required here is receipt and delivery point data in the report on pipeline transactions and the Index of Customers, certain organizational and personnel information on affiliates, and information on design and scheduled capacity and service outages. Third, the Commission is reorganizing its regulations to consolidate all of the existing and new Part 284 reporting requirements into a single, new § 284.13 governing open-access reporting requirements for interstate pipelines.

Under the new requirements, as detailed below, pipelines will be required to provide transactional information, information regarding capacity and service outages, an index of firm transportation customers, and information concerning marketing

[211] Comments of AF&PA, Amoco, Dynegy, Process Gas Consumers, and Exxon.

[212] Information is currently provided through a variety of formats: the capacity release reporting standards (§ 284.10(b)(1)(v), Capacity Release Related Standards 5.4.1, 5.4.3), the Index of Customers § 284.106(c)), the discount report (§ 284.7(c)(6)), and the maintenance requirement for discount information (§ 250.16(d)).

[213] 18 CFR 284.10(b)(1)(v), Capacity Release Related Standards 5.4.1, 5.4.3.

[214] 18 CFR 284.7(c)(6).

affiliates, most of which is already reported or maintained.[215]

- The transactional information on firm and interruptible transportation will be provided by posting the information on the pipelines' Internet web sites and through downloadable files. The transactional information on firm transportation, whether provided by the pipeline or through capacity release, is to be reported contemporaneously with the transaction. The information on interruptible transportation will be provided daily.
- The capacity information will provide information on available, scheduled, and design capacity and service outages through posting on the pipelines' web site and through downloadable files. The information on available and scheduled capacity will be posted daily. Information on design capacity will be posted one time (and thereafter maintained on the web site), and then updated as necessary. Service outages will be posted when required.
- The Index of Customers will be provided through a quarterly filing with the Commission, as well as by posting the information quarterly on the pipelines' Internet web sites.
- The affiliate information will be posted on the pipelines' Internet web sites, and will be updated within three days of changes in the information.

A. Transactional Information

To assure parity of the transactional information that is reported for capacity release transactions and for pipeline transactions, the Commission is requiring that pipelines provide the same information about their firm and interruptible transactions as is currently reported about capacity release transactions, in the same format. Therefore, the Commission is adding a new § 284.13(b) that will require pipelines to post on their Internet web site, and provide downloadable files of, transactional information about their own capacity transactions and released capacity transactions.[216] Pipelines will be required to keep the firm and interruptible transactional information, described below, available on their web sites for 90 days. In accordance with the Commission's existing regulations, pipelines will also have to archive this information after the 90-day period expires, maintaining the information for a period of three years.[217]

Specifically, for firm service, pipelines will be required to post the following information, contemporaneously with the execution of the contract: the names of the parties to the contract; an identification number for each shipper, such as a DUNS number; the contract number for the shipper receiving service and for the releasing shipper; the rate charged under each contract and the maximum rate, if applicable; the duration of the contract; the receipt and delivery points and zones or segments covered by the contract, as well as the common transaction point codes; the contract quantity, or volumetric quantity under a volumetric release; special terms and conditions applicable to a capacity release and special details pertaining to a pipeline transportation contract;[218] and any affiliate relationship between the pipeline and the shipper or between the releasing and replacement shipper.

For interruptible transportation, the pipeline will be required to post the following information on a daily basis: The name of the shipper; a shipper identification number; the rate charged and maximum rate, if applicable; the receipt and delivery points and zones or segments over which the shipper is entitled to nominate gas, as well as the common transaction point codes; the quantity of gas the shipper is entitled to nominate; special details pertaining to a pipeline transportation contract; and any affiliate relationship between the shipper and the pipeline.

The Commission is also eliminating the separate discount report previously required by § 284.7(c)(6). It will no longer be required, since the same information will be reported under the reports on firm and interruptible transactions in new § 284.13(b). However, pipelines will be required to continue to file discount reports until September 1, 2000, when they are required to comply with the new reporting requirements.

Pipelines already provide, via the Internet, virtually all of the above transactional information for capacity release transactions, at the time of the transaction.[219] However, under the current regulations, pipelines are required to provide limited transactional information for their own capacity transactions, and the information that is required is neither as timely nor as easy to access as the capacity release information. Currently, pipelines must file discount reports, which require only some information on firm and interruptible transactions at less than the maximum rate—the name of the shipper, the maximum rate, the rate actually charged, and any corporate affiliation between the pipeline and the shipper.[220] The discount report does not include any information on volumes, the receipt and delivery points for the transaction, or the duration of the contract. And, the discount report is filed, but not posted electronically, 15 days after the close of the billing period applicable to the transaction. Thus, the information provided in the discount report is limited in nature, is provided well after the transaction has taken place, and is filed with the Commission, rather than posted on the pipeline's EBB or on the Internet.

Some information regarding firm transactions is available in the Index of Customers, which requires that pipelines file the following information electronically with the Commission and on the pipelines' EBBs for each customer receiving firm transportation or storage service: the customer name, the amount of capacity held, the duration of the contract, and the applicable rate schedule.[221] However, the Index of Customers cannot truly be considered a transactional report, since it does not provide any price information or information on the capacity path held by the shipper. Therefore, it is of limited use in monitoring transactions for discrimination. In addition, the Index of Customers is only filed quarterly, and therefore reflects only those shippers that have contracts with the pipeline on the quarterly filing day. As a result, it is inadequate to capture shipper and contract information for short-term firm contracts that may begin and end within a quarterly filing period.

Thus, the discount report only provides some after-the-fact information regarding transactions at less than the maximum rate, the Index of Customers only provides some quarterly information regarding firm contracts, and neither reporting requirement provides any transactional information with respect to interruptible transactions at the maximum rate. Consequently, the content and reporting formats of the existing reporting requirements for pipeline transactions are inadequate to give shippers and the

[215] As a result of consolidating the reporting requirements into one place in the regulations, § 284.13 also includes the annual report on peak day capacity and storage capacity, and the semi-annual storage report, which are filed with the Commission. The Commission is not changing these regulations in this rule.

[216] While new § 284.13(b) enumerates information the Commission needs for firm and capacity release transactions, it does not replace the existing GISB capacity release data set.

[217] Section 284.10(c)(3)(v), redesignated as § 284.12(c)(3)(v).

[218] Under this requirement, a pipeline must report any special conditions attached to a discounted transportation contract, such as requirements for volume commitments to obtain the discount.

[219] 18 CFR 284.10(b)(1)(v), Capacity Release Related Standards 5.4.1, 5.4.3. The only exceptions are that some pipelines are not required to report whether a capacity release transaction is between a releasing shipper and an affiliate, and contract numbers are not required to be reported.

[220] 18 CFR 284.7(c)(6).

[221] 18 CFR 284.106(c)(3).

Commission a real-time snapshot of what price capacity sold for on a particular day. The pipeline data and reporting formats are not comparable to the existing reporting requirements for capacity release transactions. The reporting of the same information required to be provided in the capacity release reports, in the same format, is necessary with respect to pipeline transactions for shippers to have a complete and comprehensive view of the market.

The transactional reporting requirements the Commission is adopting here are generally the same reporting requirements proposed in the NOPR, with a few minor modifications. The Commission is adding to the firm and interruptible transactional reports proposed in the NOPR the maximum rate under each pipeline contract, to enable the magnitude of any discounts to be known, since the existing discount report is now subsumed within the reports on firm and interruptible transactions. In addition, the Commission is adding to the transactional reporting requirements an individual shipper identification number, such as a DUNS number, to the extent one exists for a particular shipper, so that it will be easier to link together, or match-up, customer-specific data from different reports. The Commission is also adding the common point codes for the receipt and delivery points. The Commission has previously adopted the consensus recommendation of GISB that pipelines use common transaction point codes.[222]

Many commenters support the reporting requirements the Commission proposed in the NOPR and is adopting in this rule.[223] Some commenters even advocate that the Commission should impose greater reporting requirements than those proposed in the NOPR.[224] Other commenters, though, object to the Commission requiring pipelines to disclose specific information about pipeline transactions on confidentiality grounds.[225] They argue that such information, particularly customer names, receipt and delivery points, and contract numbers, is commercially sensitive information, which, if disclosed contemporaneously with the transaction, will cause shippers competitive harm.

For instance, Dynegy argues that disclosure of individual contract numbers and receipt and delivery points will make it easy for shippers to track the chain of title to determine where other shippers' supply came from and where it will end up. Dynegy states that knowledge of this information, together with the rates paid for the transportation, will allow shippers to undercut or steal other shippers' transactions.[226] Dynegy does indicate, however, that it might not object to the release of such information to only the Commission, with appropriate confidentiality protection. Dynegy further maintains that it does not object to the disclosure of this information with respect to pipelines' transactions with their affiliates because there is an overriding need for pipelines to report such information for their marketing affiliates that outweighs concerns about commercial sensitivity.[227]

Similarly, Duke asserts that there is no need to identify specific shipper's nominated capacity at each point because such information would give shippers knowledge of their competitor's general marketing strategy and allow shippers to deduce the identity of the markets themselves. Duke states that the identity of the shipper should be redacted from postings.[228]

Some commenters maintain that requiring pipelines to report the additional transactional information may have the unintended effect of increasing bundled sales activity.[229] They state that because many shippers do not want to have the details of their transactions disclosed, they currently avoid capacity release transactions in favor of bundled sales transactions. Thus, the commenters argue that a policy of immediate disclosure of transactional information for pipeline transactions will cause even greater bundled sales transactions, and thereby frustrate the Commission's goal of increased market transparency.

In addition, the opposing commenters request that if the Commission decides to require public disclosure of the transactional information, at a minimum, it should not require the immediate disclosure of the information, but should revise the timing of the reporting requirement.[230] They request that the reporting of the information, particularly the identity of the shipper, be delayed, so pipelines and shippers are not given an opportunity to use such information to gain a competitive advantage. They suggest delays ranging from 30 days after the transaction, to six months after service under the contract begins.

The Commission finds that the disclosure of detailed transactional information is necessary to provide shippers with the price transparency they need to make informed decisions, and the ability to monitor transactions for undue discrimination and preference. Shippers need to know the price paid for capacity over a particular path to enable them to decide, for instance, how much to offer for the specific capacity they seek. While the Commission acknowledges that the disclosure of shipper names is not necessary for this type of decisionmaking and price transparency, the disclosure of the identity of the shipper in each transaction, together with the price and capacity path information on each shipper's transaction, is necessary to enable shippers and the Commission to effectively monitor for potential undue discrimination or undue preference. The disclosure of all of the transactional information without the shipper's name will be inadequate for other shippers to determine whether they are similarly situated to the transacting shipper for purposes of revealing undue discrimination or preference. For example, the disclosure of the name of the shipper in the transaction may help other shippers to determine whether a transacting shipper may be entitled to a discount because it is fuel-switchable. In addition, the disclosure of the identity of shippers in the transactional reports enables shippers and the Commission to determine how much total firm capacity (both pipeline capacity and released capacity) a shipper holds on each individual pipeline, as well as on connecting pipelines. Such information is important for examining market power

[222] See redesignated 18 CFR 284.12(b)(1)(v) Capacity Release Related Standards (Version 1.3), Firm Transportation and Storage-Award Notice, tab 8, at 2, tab 8 EDI, at 17–18. Under this provision, however, a pipeline can use a propriety code if no common transaction point code exists, but will have two months within which to obtain a common code for that point.

[223] *E.g.,* Comments of AEC, AF&PA, AGA, Amoco, CPUC, Duke Energy, Enron Capital, Florida Cities, Florida DMS, Industrials, Louisville, NEMA, Penn. PUC, Proliance, PSC or Kentucky, PUC of Ohio, Soutehrn Co. Services, WGL, and Wisconsin Distributors.

[224] Comments of Amoco, Indicated Shippers, New England, Southern Company Services, TransCanada, WGL, and Wisconsin Distributors.

[225] Comments of Coastal, Dynegy, Duke, Process Gas Consumers, NICOR, PUC of Ohio, Sithe, Tejas, Williams, and Williston Basin.

[226] Comments of Dynegy at 14–15.

[227] Comments of Dynegy at 8 and 14.

[228] Comments of Duke at 7.

[229] Comments of Coastal 93–94 and PUC of Ohio at 8. The comments of the PUC of Ohio on this point are limited to the disclosure of the transacting parties' identities.

[230] *See* Comments of Dynegy at 16, NICOR, at 21, and Industrials at 89.

and whether a shipper has sufficient market presence to unduly discriminate.

Moreover, the general regulatory scheme of section 4 of the Natural Gas Act is based on the public disclosure of all prices and contracts.[231] Thus, the posting of customer-specific information in the transactional reports being required here is consistent with this statutory framework. In addition, in requiring the shipper identity to be disclosed, the Commission is not changing or reversing its treatment of shipper names in the reporting requirements. The names of shippers are currently required to be posted for capacity release transactions and for discount transactions in the discount reports.

Finally, to be meaningful for decisionmaking purposes, the transactional information must be reported at the time of the actual transaction. A delayed reporting of the information 30 days or more after the transaction has occurred, as some commenters suggest, will not be timely enough to enable shippers to use the information on a day-to-day basis to make purchasing decisions. At that point, the information is historical, and is of no value for current decisionmaking. In other words, the knowledge of what capacity sold for what price 30 days earlier would not aid shippers in making a current capacity decision. Some commenters advocate a delayed posting of the shippers' names only. The Commission acknowledges that immediate disclosure of shippers' names is not necessary for the Commission and other shippers to monitor for undue discrimination and preference. A delayed posting of the shipper names would suffice for the monitoring purpose for which the names are needed. However, a requirement that pipelines report different transactional information at different times is likely to be impracticable to implement, creating a burden that outweighs the need for confidentiality. Because it is necessary for all of the other transactional information to be posted at the time of the transaction, the Commission will require the identity of the shipper for each transaction also to be disclosed at the time of the transaction.

Commenters also have concerns regarding the burden that the Commission's revised transactional reporting requirements will place on pipelines.[232] For example, some commenters contend that requiring pipelines to post information on interruptible transactions on a daily basis is too burdensome.[233] Williston Basin states that requiring these data on a daily basis is akin to uploading each pipeline's daily interruptible nominations (including all intraday cycles) on its Internet web site every day.[234] It asserts that a pipeline's single timely nomination cycle can be thousands of records long, and that multiplying this by the intraday cycles day after day will prove to be an enormous amount of data. PSC of New York states that it may be impossible or impractical to post interruptible transactions before gas flows. PSC of New York suggests that the posting of interruptible transactions should be required as soon as possible after gas flows.[235] In contrast, Amoco argues that the Commission should require the posting of all interruptible transactions contemporaneous with the execution of the contract.

The Commission does not expect that the burden of complying with the transactional reporting requirements will be great. Most of the information required for the pipeline's transactional report on firm and interruptible service is already required to be reported or maintained under existing requirements, such as the Index of Customers, the discount report, or the affiliate discount information maintenance requirement in § 250.16(d) of the Commission's regulations, albeit separately, and in different formats.[236] Thus, the burden will not be in collecting or gathering the data, but will largely be in creating the new formats for displaying the information on the pipelines' Internet web sites. Pipelines may, however, be able to adapt their already existing capacity release data sets to apply to pipeline transactions without much difficulty. Moreover, the Commission is reducing the periodic reporting currently required under the regulations by eliminating the monthly discount report.

While the Commission is requiring that some new data, not required in existing reports, be posted on firm and interruptible transactions, it is not an extensive amount of information compared to what is already provided. For the firm transactional report, the Commission is adding the receipt and delivery points and the zones or segments under the contract, the common transaction point codes, the contract number, a shipper identification number, and special terms and conditions applicable to a capacity release and special details pertaining to a pipeline transportation contract. Similarly, for the interruptible transactional report, the Commission is adding the receipt and delivery points and zones or segments, the common transaction point codes, the contract quantity, a shipper identification number, and special details pertaining to a pipeline transportation contract. Further, these additional data are information that pipelines use in the course of their daily business activities, and thus, have in their possession, so that pipelines should not encounter great difficulty in assembling the information. Again, for pipelines to comply with the new reporting requirements, their task will be to develop a method for displaying the information on the web sites.

The Commission recognizes that the quantity of data to be posted on interruptible transactions could be voluminous for some pipelines. However, in order for shippers to have a true understanding of pricing in the marketplace, they must know what prices are being paid for interruptible transportation service and when such interruptible prices change. The existing discount report for interruptible transactions at less than the maximum rate is inadequate because it provides only a monthly average of the price paid. Since the prices for interruptible service can change daily, it is necessary for the pipeline to post interruptible transactions on a daily basis. In addition, the Commission emphasizes that the Commission is requiring the posting of these data once daily, not contemporaneously with the execution of each contract.

B. Information on Market Structure

To provide shippers with a more useful picture of the structure of the market for both decisionmaking purposes and monitoring purposes, The Commission is expanding two of its reporting requirement regulations: the Index of Customers and the affiliate regulations.

1. Index of Customers

Pipelines currently file with the Commission, and post on their Internet web sites, on the first business day of each calendar quarter, an Index of Customers under existing § 284.106(c)(3) of the regulations, which provides the names of shippers holding

[231] 15 U.S.C. 717(c).

[232] Comments of AGA, Koch, MichCon, Tejas, and Williston Basin.

[233] Comments of Williston Basin and PSC of New York I.

[234] Comments of Williston Basin at 32.

[235] Comments of PSC of New York I at 14–15.

[236] The only true gap in the information currently reported is information on interruptible transactions at the maximum rate, since the discount reporting requirements, by definition, do not apply to maximum rate transactions.

firm capacity, the amount of capacity they hold, the applicable rate schedule, and the contract effective and expiration dates. The Commission is adding the following new information requirements to the Index of Customers, which is now § 284.13(c): The receipt and delivery points held under the contract and the zones or segments in which the capacity is held; the common transaction point codes; the contract number; a shipper identification number, such as DUNS; an indication whether the contract includes negotiated rates; the names of any agents or asset managers that control capacity in a pipeline rate zone; and any affiliate relationship between the pipeline and the holder of capacity.

The Commission is requiring that pipelines report the receipt and delivery points and zones or segments in which the capacity is held so that the capacity path held by the shipper can be traced, and the data can be used to determine which shippers can compete in providing capacity on segments of the pipeline. The contract number and shipper identification number are needed on the Index of Customers, as well as on the report of capacity release transactions, so capacity can be traced through release transactions to reveal how much total capacity each shipper holds. In addition, in the current market, shippers may be using agents or asset managers to manage their capacity, and such managers may be given wide latitude over the way in which capacity is used. Requiring that pipelines disclose the names of the agents or asset managers will help to show the degree of control over pipeline capacity that an agent or asset manager may exercise. This will aid in the detection of potentially anticompetitive market dominance. Finally, to permit effective monitoring of the capacity held on pipelines, it is necessary to know any affiliate relationship between the pipeline and a shipper or a shipper's agent or asset manager in order to determine the total amount of capacity held by the parent entity.

The information in the Index of Customers that the Commission is requiring in this rule is different from the information that the Commission proposed in the NOPR to include in the Index of Customers. Essentially, as described below, the Commission is requiring less information with respect to agency and affiliate relationships to be reported than the Commission proposed to require in the NOPR.

In the NOPR, the Commission proposed to require pipelines to report for each customer the names of any agents or asset managers that control 20 percent or more of capacity in a pipeline rate zone, as well as the rights of the agent or asset manager with respect to managing the transportation service. Several commenters objected to this reporting requirement.[237]

Dynegy indicates that it holds a number of agency arrangements with pipeline customers under which it sometimes provides an array of services, and which its competitors would want to replicate. Dynegy argues that if the breadth and depth of agency relationships are disclosed, an agent will be stripped of any competitive advantage it has gained through experience and commercial expertise.[238] Dynegy also contends that to the extent that the market would learn of an agency relationship, the ability of that agent or asset manager to act on behalf of a large shipper without moving the market would be significant reduced.

WGL, in its comments, states that it is unclear what purpose is served by this reporting requirement.[239] WGL believes that if the information disclosed is limited to the details of operational rights, the release of such information may not be objectionable. However, WGL contends that contracts between the shipper and the agent/asset manager may contain sensitive commercial information, and in many cases where the shipper is an LDC, such agreement is subject to local regulatory review. Coastal requests that the Commission limit the scope of this requirement to the disclosure of only the existence of an agent or asset manager, when known by the pipeline, not the rights of the agent or asset manager, which may be impossible for the pipeline to track.[240]

The Commission finds that asset manager reporting is needed to reveal potentially unhealthy market dominance by an asset manager that would not otherwise be apparent. However, the reporting of only the names of any asset manager or agent, without including the details of the asset manager/agency relationships, will be adequate for this purpose. Thus, the Commission is requiring pipelines to report the names of asset managers or agents, but not the agent's/asset manager's rights with respect to managing the transportation service. However, the Commission will require that all asset managers or agents be identified, not just those that manage 20 percent of more of the transportation service in a pipeline rate zone. The determination of which asset managers and agents meet this 20 percent threshold requirement may be too difficult to make in many instances. In addition, the Commission disagrees with Dynegy that reporting the names of asset managers or agents of customers will somehow reveal the identity of the particular customer the asset manager or agent is acting on behalf of during contract negotiations. Since the asset manager or agent presumably would have several clients, the market would not know which client a given gas purchase would be for. There is no requirement that the actual capacity transactions arranged by the asset manager or agent be reported.

The Commission is also reducing the information required in the Index of Customers with respect to affiliates from what was proposed in the NOPR. In the NOPR, the Commission proposed to require that pipelines indicate, in the Index of Customers, any affiliate relationship between the pipeline and the holder of capacity, and any affiliate relationship between holders of capacity.

Several commenters objected to the requirement that pipelines identify affiliate relationships among holders of capacity.[241] PG&E objects to this requirement when such affiliate relationships involve third parties unrelated to the pipeline responsible for the posting.[242] PG&E and Williston Basin argue that pipelines do not have access to such information, nor the ability to obtain or ensure the accuracy of such information. Similarly, National Fuel maintains that it may not be practical for a pipeline to identify every affiliate relationship between a particular shipper and every other shipper using the pipeline's system.[243] At a minimum, National Fuel argues, this requirement should be limited to major holders of capacity—perhaps those holding 20 percent of the pipeline's capacity—and that the onus should be on the capacity holder to identify whether it is affiliated with the pipeline's other shippers. Dynegy, also, asserts that this requirement gives pipelines too much discretion to research their shipper's transactions.[244]

As a result of these comments, the Commission has reconsidered its proposal to require the reporting of third-party affiliates. The Commission agrees with the commenters that it may not be feasible for pipelines to

[237] Comments of Dynegy, WGL, and Coastal.

[238] Comments of Dynegy at 13.

[239] Comments of WGL at 15.

[240] Comments of Coastal at 94.

[241] Comments of PG&E, National Fuel, Dynegy, and Williston Basin.

[242] Comments of PG&E at 18–19.

[243] Comments of National Fuel Gas Supply at 4–5.

[244] Comments of Dynegy at 12.

accurately identify their customers' affiliates. Therefore, the Commission is requiring that pipelines identify only their own affiliates, and not affiliate relationships among customers.

Dynegy and others that object to the disclosure of customer names, receipt and delivery points and contract numbers required in the transactional reports in § 284.13(c) also object to the requirement that they be disclosed in the Index of Customers, on the same bases of confidentiality and burden. Some commenters argue that the transactional reports and the Index of Customers are duplicative.[245]

The rationale for including customer names, receipt and delivery points and contract numbers in the Index of Customers is essentially the same as it is for including such information in the transactional reports. The additional information being required in the Index of Customers, particularly the receipt and delivery points and zones or segments in which capacity is held, which raises the most concern with respect to burden for commenters, is necessary for shippers to determine who holds capacity, the amount, and where it is held. Such information reveals potential sources of capacity for shippers making purchase decisions, provides information on market concentration and structure, and will permit shippers to better monitor for potential undue discrimination or preference. The benefits and importance of requiring the posting of the additional data in the Index of Customers outweigh the concerns of the commenters about confidentiality, just as it does with respect to the transactional reports.

With respect to the burden of posting the additional information in the Index of Customers, some of the additional Index of Customer data—the affiliate indicator and the delivery points under the contract—are already reported or maintained for discounted transactions. Pipelines will simply have to add this and the other, new, data (contract number, shipper identification number, receipt points, whether the contract includes negotiated rates, and the names of any agent/asset manager) to the existing data sets for the current Index of Customers. In addition, as discussed above, the Commission has reduced the burden that some of the informational requirements for the Index of Customers proposed in the NOPR would otherwise have place on pipelines (*i.e.,* the identification of affiliate and agent/asset manager relationships). In sum, the additional reporting burden with respect to the Index of Customers should not be too great given that the additional information, for the most part, is straightforward information that is a part of each shipper's contract.

Finally, the information required in the Index of Customers is not duplicative of the information in the transactional reports. The Index of Customers provides a snapshot view of who holds firm capacity on each pipeline that otherwise could not be obtained without continuously tracking every firm capacity transaction. Conversely, the transactional reports are necessary to provide the price information that is not included, and would be meaningless to include, in the quarterly Index of Customers.

2. Affiliate Regulations

The Commission is expanding its affiliate regulations to provide more information to permit monitoring and self-policing of affiliate transactions. The Commission is revising § 161.3(l) of the standards of conduct for interstate pipelines to specifically require that pipelines with marketing affiliates post certain information concerning their affiliates on their Internet web sites, and to update the information within three business days of any change.[246] These revisions also will apply to pipelines with sales operating units.[247] Under revised § 161.3(l), the Commission is requiring that pipelines post a list of the names of operating personnel and facilities shared by the interstate pipeline and its marketing affiliate. The pipelines currently provide this information in their tariffs, under § 250.16(b)(1); however this new requirement will make such affiliate information easily available on the Internet.

The Commission also is requiring pipelines, under § 161.3(l), to post on their Internet web sites comprehensive organizational charts that include several types of information, set forth below. The Commission has adopted a similar requirement for the posting of organizational charts and job descriptions in the electric industry, to help monitor and protect against improper communications between transmission and wholesale merchant function employees.[248]

First, the pipeline must post an organizational chart showing the organizational structure of the parent corporation and indicating the relative position within the corporate structure of the pipeline and all marketing affiliates.

Second, the pipeline must post an organizational chart showing business units, job titles, job descriptions, and chain of command for all positions within the pipeline, including officers and directors. The pipeline need not include such information for clerical, maintenance, and field positions, since employees in those positions would not have access to information concerning the processing or administration of requests for service. The job titles and descriptions must include the employee's title, duties, and an indication whether the employee is involved in transportation or gas sales. Employees involved in transportation or gas sales include any member of the board of directors, officers, managers, supervisors, and regulatory and technical personnel with duties involving day-to-day gas purchasing, marketing, sales, transportation, operations, dispatching, storage, or related activities.[249] In addition, the pipeline must also include the names of supervisory employees who manage non-clerical employees involved in transportation or gas sales.

Third, for all employees shared by the pipeline and a marketing affiliate, the pipeline must post an organizational chart showing the business unit or sub-unit within the marketing affiliate organizational structure in which the shared employee is located, the employee's name, the employee's job title, and job description within the marketing affiliate, and the employee's position within the chain of command of the marketing affiliate.

The reporting requirements being adopted here are essentially the same general requirements proposed in the NOPR. However, the Commission has decreased the reporting burden that would have been required by the NOPR. In the NOPR, the Commission proposed to require pipelines to post detailed organizational charts, including detailed employee job descriptions, for the pipelines' marketing affiliates. In this

[245] *E.g.,* Comments of Williams.

[246] The regulation adopted here incorporates the changes in the affiliate regulations made previously in Docket No. RM98–7–000, Reporting Interstate Natural Gas Pipeline Marketing Affiliates on the Internet, III FERC Stats. & Regs. Regulations Preambles ¶ 31,064 (July 30, 1998), 63 FR 43075 (Aug. 12, 1998).

[247] 18 CFR 284.286 (c) (requiring pipelines with sales operating units to comply with standards of conduct applicable to marketing affiliates).

[248] *See* American Electric Power Service Corporation, 81 FERC ¶ 61,332 (1997), 82 FERC ¶§ 61,131, *order on reh'g,* 83 FERC ¶ 61,357 (1998).

[249] Order No. 497–E, *order on rehearing and extending sunset date,* 59 FR 243 (January 4, 1994), FERC Stats. & Regs. 1991–1996 ¶ 30,958 at 30,996 (December 23, 1993) (defining ''operating employee'').

final rule the Commission is not requiring organizational charts for the marketing affiliates, except to the extent that they share employees with the pipeline, and the reporting requirement is limited to data regarding the shared employee. The Commission is making this change to conform the affiliate reporting requirements for pipelines to those required for the electric utilities.

Several commenters fully support the reporting requirements that were proposed.[250] Dynegy maintains that these reporting requirements are a valuable tool to police pipeline affiliate activities, as well as a resource for contacting employees within a corporation. Several commenters also oppose these affiliate reporting requirements, particularly the requirement that pipelines post organizational charts and employee names.[251] Williston Basin objects to the posting of organizational charts, names, and job descriptions for marketing affiliates. Williston Basin argues that the Commission has never before imposed a marketing affiliate reporting requirement on pipelines that do not conduct business with the marketing affiliate. Williston Basin also maintains that requiring the names of pipeline and marketing affiliate employees to be posted on the pipeline's web site, even though their job requirements do not entail contact with outside parties, would violate the personal privacy of those employees.

Requiring that pipelines post shared personnel, organizational charts, job titles and descriptions, and the names of senior employees is essential to ensure that pipelines deal fairly with their customers. These reporting requirements will act to deter undue discrimination and preference, and will permit the market to monitor and self-police affiliate transactions.

In response to Williston Basin, the Commission clarifies that all of the marketing affiliate reporting requirements in part 161, including the new requirements added here, apply only to pipelines that conduct transportation transactions with their marketing or brokering affiliates.[252] Also, as stated above, the Commission is not requiring the detailed organizational charts for marketing affiliates, to which Williston Basin objects, in all instances. Only where there are shared employees between the marketing affiliate and the pipeline is the pipeline required to post information regarding the shared employee's position within the marketing affiliate. The Commission further clarifies that it is requiring posting of the names of only senior employees. A pipeline will not be required to post the names of non-senior employees, so concerns about privacy for lower level employees are somewhat misplaced.

C. Information on Available Capacity

In § 284.8(b)(3) of the Commission's existing regulations, pipelines are required to post information about the amount of operationally available capacity at receipt and delivery points, on the mainline, in storage fields, and whether the capacity is available directly from the pipeline or through capacity release.[253] In new § 284.13(d)(1), being adopted here, the Commission is continuing to require that pipelines post this information, and is adding the following information on capacity availability to the information that is already collected: The total design capacity of the point or segment; the amount of capacity scheduled at each point on a daily basis; and information on planned and actual service outages that would reduce the amount of capacity available. The Commission expects that the pipelines will provide advance notice of planned outages or service disruptions so that shippers can plan for these events.

Information on the total design capacity of the point or segment, and the amount of capacity scheduled on a daily basis is needed for shippers to monitor capacity availability. With respect to the information on outages, while some pipelines currently post such information on outages, it is not currently a Commission requirement. Requiring pipelines to provide information on outages will enable shippers to better make decisions about their use of capacity because they will know whether the available capacity will be reduced on a particular day. Such information will also help in monitoring capacity withholding by revealing reasons for reductions in scheduled quantities.

These reporting requirements for available capacity are the same reporting requirements proposed in the NOPR. Some commenters, however, object to the additional reporting requirements on capacity availability,[254] while others appear to object to the continuation of the existing reporting requirements on operationally available capacity.[255]

Specifically, several pipelines argue that it will be difficult to comply with the additional requirements for posting design and scheduled capacity because for some pipeline configurations, and for particular pipeline segments, capacity is not fixed, but is dependent on operating conditions or operational strategies that may vary depending on requests for service. For instance, Coastal states that on web-like systems, the design capacity at particular points or segments is a function of the usage of other parts of the system, which varies constantly, particularly with the implementation of three intraday nomination cycles.[256] CMS Pipelines state that they do not have the computer and technology capability to provide the additional capacity information in real time. For example, they assert that field outages that affect capacity are not conveyed immediately to the EBB. CMS Pipelines also add that human intervention, judgment and decisionmaking can all affect the determination of available capacity.

More generally, CNG asserts that it cannot provide detailed information about available capacity over particular paths or segments, or in particular storage facilities, and lists a number of variables that influence the capacity available at any given moment.[257] CNG argues that because such variables determine the level of available capacity at any given time, it is meaningless for pipelines to report calculated capacities throughout its system. In addition, some commenters appear to suggest that the Commission limit the existing reporting of operationally available capacity to key points, such as interconnections, market hubs, and points that are frequently constrained.[258]

In contrast, a few commenters argue that the Commission should require pipelines to post more information on available capacity than was proposed.[259] For example, Dynegy maintains that shippers need information on design capacity, operationally available capacity, and actual and maximum flows, not only at all receipt and delivery points and on the mainline, but also at each point of

[250] Comments of Dynegy, Indicated Shippers, and PUC of Ohio.

[251] Comments of Williston Basin, Williams, and Tejas.

[252] 18 CFR 161.1. However, as provided in § 161.1, the marketing affiliate reporting requirements in part 161 apply not only to marketing affiliates, but also to pipeline sales operating units.

[253] 18 CFR 284.8(b)(3); 18 CFR 284.10(b)(1)(iv)(1997), Electronic Delivery Mechanism Related Standards 4.3.6; 18 CFR 284.10(b)(1)(v), Capacity Release Related Standards 5.4.13.

[254] Comments of Coastal, CMS Pieplines, and Williams.

[255] Comments of CNG, and Peoples.

[256] Comments of Coastal at 93.

[257] Comments of CNG at 33–34.

[258] Comments of Peoples at 15 and Philadelphia Gas Works at 1.

[259] *E.g.*, Comments of Dynegy at 1–7.

constraint and segment. Dynegy also asserts that shippers need information on unsubscribed capacity and capacity under expiring or terminating agreements, and that they need such information at least 18 months in advance of when the capacity will become available. Similarly, Industrials request that the Commission require pipelines to post on the Internet detailed, rolling information regarding capacity becoming available over the next 18 months. Exxon, also, requests that the Commission require the posting of capacity under contracts that are due to expire in four months.

Several clarifications of this reporting requirement are needed to respond to the commenters' concerns. First, as stated above, the Commission's current regulations require pipelines to post operationally available capacity at receipt and delivery points, on the mainline, and in storage fields.[260] The Commission did not propose in the NOPR to change these requirements, and in this rule is not modifying such requirements. Pipelines have been able to comply with the regulations requiring the reporting of operationally available capacity, and thus, there is no reason to modify such requirements. Pipelines must continue to report available capacity as required in the Commission's existing regulations, which necessarily involves pipelines taking into account operational variables.

Second, pipelines have information on the amount of capacity scheduled at each point or segment, and, therefore, should be able to post that data on a daily basis. In fact, GISB Standard 1.3.2 requires pipelines to inform shippers of scheduled quantities. However, the Commission is not requiring that pipelines post scheduled capacity at all points *and* segments. If, as some pipelines argue, it is difficult for them to provide scheduled capacity on segments of their systems, they need only post scheduled capacity for their receipt and delivery points. The Commission is requiring the posting of scheduled capacity for either receipt and delivery points, or segments, whichever makes the most sense for a particular pipeline system.

Third, the Commission understands that it may be difficult for some pipelines to calculate the total design capacity of each point or segment on its system, due to operational or usage variables or particular system configurations. In those instances, pipelines must post design capacities for the most common operating conditions of their systems, such as peak period or off-peak period. In addition, the Commission clarifies that the posting of the total design capacity of the points or segments is not a daily posting requirement. Rather, pipelines must update this information from time-to-time as changes in design capacity occur.

Finally, the Commission does not find it necessary to require pipelines to provide even more detailed information on design capacity and operationally available capacity than the Commission is requiring in this rule, or to provide information on the future availability of capacity. Currently, shippers can obtain information on firm capacity that will be coming available in the future by reviewing the Index of Customers, which includes contract expiration dates. With respect to requiring more detailed capacity information, including flow data, at not just receipt and delivery points, but also at constraint points and segments, as Dynegy suggests, the Commission finds that the reporting of scheduled capacity at each receipt and delivery point is sufficient, and that shippers should be aware of which points or segments are constrained.

D. Coordination With GISB Standardization Efforts

The Commission recognizes that pipelines have just completed preparing their systems for the Year 2000 and are in the process of making changes to comply with Commission requirements to transfer data from Electronic Bulletin Boards to Internet web sites by June 1, 2000. The Commission, therefore, will require pipelines to implement the new data reporting requirements by September 1, 2000.

Pipelines are required to provide much of the information in the revised reporting requirements by posting the information on their Internet web sites and in downloadable file formats. The industry, through the Gas Industry Standards Board (GISB), has developed, and is in the process of improving, standards for providing currently required information both on pipeline web sites and through downloadable file formats, using Electronic Data Interchange ASCX12 (EDI) formats.[261] GISB also is examining whether to provide such downloads in flat ASCII file formats as well. GISB already has developed standards and the pipelines are posting some of the information in the revised regulations, such as capacity release information and operationally available capacity. Pipelines will continue to post that information pursuant to the GISB standards.

Ultimately, GISB needs to develop standards for the new reporting requirements (including pipeline firm and interruptible transportation transactions, design capacity, constraint information, and scheduled capacity) both for the presentation of the information on pipeline web sites and the provision of the information in Electronic Data Interchange ASCX12 (EDI) or ASCII file formats.

The Commission encourages GISB to try and to complete the process of standardization in time for the September 1, 2000 implementation date. But the Commission recognizes that such a schedule may be ambitious given the other changes to electronic communication GISB is now in the process of developing. Because the provision of the new information is important both to improve market transparency and for monitoring, the Commission will require pipelines to provide this information in non-standardized formats in the event GISB is unable to develop the datasets in time for September 1, 2000 implementation. Pipelines, however, will not have to develop individual EDI file formats for the information during the period when GISB is developing the standards. Pipelines only will have to post the information on their web sites and provide flat ASCII file downloads for the relevant information. In addition, the Commission will issue in the near future revisions to its instruction for the electronic filing of the Index of Customers report to accommodate the new information required by this rule.

The revised reporting requirements also call for the provision of both shipper names and a unique numeric identifier for each shipper. These requirements apply to both the Internet postings and the electronic file downloads. This requirement represents a change from the current practice under the GISB standards of providing only numeric identification in electronic file downloads. The industry, through GISB, has chosen to use the numbers developed by Dun & Bradstreet (D&B) as the numeric identifier for shipper names (DUNS numbers). Where pipelines use numeric identifiers in electronic communications without the accompanying shipper name, the Commission has required pipelines to provide a table that cross-references

[260] 18 CFR 284.8(b)(3); 18 CFR 284.10(b)(1)(iv)(1997), Electronic Delivery Mechanism Related Standards 4.3.6; 18 CFR 284.10(b)(1)(v), Capacity Release Related Standards 5.4.13.

[261] *See* Standards For Business Practices Of Interstate Natural Gas Pipelines, Order No. 587–I, 63 FR 53565, 53569–75 (Oct. 6, 1998), III FERC Stats. & Regs. Regulations Preambles ¶ 31,067, at 30,737–46 (Sept. 29, 1998).

shipper names with the applicable DUNS numbers.[262] GISB has worked out an arrangement with D&B to verify the accuracy of the DUNS numbers used by pipelines and to post a cross-reference table on the GISB web site.

The Commission finds that the use of numeric identifiers for shippers is of great value, particularly for electronic processing, because electronic identifiers make electronic processing easier and eliminate confusion that may be introduced through the use of names alone, such as different spellings or abbreviations for the same entity. The Commission also appreciates GISB's agreement with DUNs to provide for verification of pipeline DUNS numbers, because that improves the accuracy of these numbers. The Commission, therefore, is requiring that all pipelines which have not yet had their DUNS numbers verified by D&B submit their numbers to D&B for verification.

The Commission, however, is concerned with the current GISB standards which require the reporting of DUNS numbers only for electronic file downloads and do not contain a field for shipper names. While the GISB cross-reference table is extremely useful for associating the names and DUNS numbers, the Commission has noticed that with respect to almost all pipelines, the cross-reference table generally omits a small, but not insignificant, percentage of shippers, who are presumably new shippers on the system. One solution for this problem would be to require pipelines to make immediate updates to the cross-reference table when new shipper names are added. But it would appear difficult and burdensome for the pipelines to institute procedures to ensure that whenever a new shipper is added to their systems, they remember to inform GISB of the addition to the cross-reference table. The need for such frequent changes also will pose administrative burdens for GISB, as well as make Commission monitoring of pipeline compliance more burdensome.

Due to the difficulties and burdens of maintaining an accurate cross-reference table, the Commission has determined instead to require pipelines to provide both a name and a number in both their Internet postings and downloadable files. When GISB next updates its standards for electronic file downloads, it needs to include fields so that pipelines can include both the shipper name and the DUNS numbers in the electronic file. Until those changes occur, the pipelines must continue to use the cross-reference table and to update their information on that table at monthly intervals.

V. Other Pipeline Service Offerings

In the NOPR, the Commission sought comment on whether, in light of the changes occurring in the natural gas market, the Commission should revise or eliminate the right-of-first refusal (ROFR)[263] and revise its current regulations with respect to non-conforming service agreements[264] to permit pre-approval of negotiated terms and conditions of service between pipelines and shippers. As discussed below, the Commission finds that some narrowing of the ROFR is needed so that it interferes as little as possible with the efficiency of the market while continuing to protect captive customers. As discussed earlier, the Commission has determined that further inquiry into the question of pre-approved negotiated terms and conditions is needed. In light of the decision not to move forward with pre-approved negotiated terms and conditions, the Commission will discuss several aspects of this decision, including its policies regarding non-conforming service agreements and the interrelation between negotiated terms and conditions of service and negotiated rates.

A. Right of First Refusal

In the NOPR, the Commission considered whether any changes to the right of first refusal and its five-year term matching cap are appropriate in light of the changes that have occurred in the marketplace since implementation of Order No. 636. Upon consideration of the comments, the Commission has decided to retain the right of first refusal with the five-year term matching cap, but narrow the scope of the right. In the future, the right of first refusal will apply only to maximum rate contracts for 12 or more consecutive months of service. Because the right of first refusal will apply only to maximum rate contracts, there will be no regulatory right of first refusal for contracts containing negotiated rates. This modification is consistent with the purpose of the right of first refusal to protect the historical service of long-term captive customers. This limitation on the right of first refusal strikes the appropriate balance between the need to protect captive customers and the need to balance the risks between pipelines and existing shippers.

1. Background

In Order No. 636, the Commission amended its regulations to permit pre-granted abandonment of transportation contracts. In order to protect captive customers from the pipelines' monopoly power, and permit them to continue to receive the historical service upon which they had relied, the Commission conditioned pre-granted abandonment on the right of first refusal.[265] Pursuant to the right of first refusal, an existing shipper with a long-term firm contract can retain its service from the pipeline by matching the rate and length of service of a competing bid for that service. The rate is capped by the pipeline's maximum tariff rate, and the requirement that the existing shipper must match the length of the contract term of a competing bid is limited to a contract length of five years.[266] In *UDC* v. *FERC,*[267] the court found that the right of first refusal mechanism with a cap on the contract length was an adequate means of protecting customers from pipelines' market power.

In the NOPR, the Commission explained that increased competition in the commodity and capacity markets since Order No. 636, affords greater protection to shippers from monopoly power. Further the Commission observed that since restructuring, some small LDCs no longer have to hold capacity on the pipeline in order to receive gas, and that, in fact, many LDCs have chosen not to hold capacity on pipelines. The Commission suggested that these changes could indicate that a right of first refusal is no longer necessary to protect shippers.

The Commission was also concerned that the right of first refusal with the five-year matching cap provides a disincentive for an existing shipper to enter into a contract of more than five years, and results in a bias toward short-term contracts. Therefore, the Commission proposed in the NOPR to eliminate the term matching cap from the right of first refusal. In addition, the Commission stated that it would consider other options for modifying the right of first refusal, including whether it should be eliminated in its entirety, whether the length of the term matching

[262] 18 CFR 284.10(c)(3)(iii) (existing regulations) 18 CFR 284.13(c)(3)(iii) (revised regulations).

[263] 18 CFR 284.221(d)(1999).

[264] 18 CFR 154.1(d) and 154.112(b)(1999).

[265] 18 CFR 284.221(d) (1999).

[266] In Order No. 636–A, the Commission adopted a term matching cap of 20 years. In *UDC* v. *FERC,* the court approved the basic right of first refusal and approved the concept of a term matching cap, but found that the Commission had not adequately explained the 20-year cap. In Order No. 636–C, the Commission concluded that a matching cap of 5 years was appropriate given the trend to shorter contracts.

[267] 88 F.3d 1105, 1139 (D.C. Cir. 1996), *cert. denied,* 117 S. Ct. 1723 (1997).

cap should be changed, and whether a right of first refusal should be a matter of negotiation between the parties.

In the comments on the NOPR, the proposal to eliminate the five-year term matching cap was generally opposed by shippers and shipper groups,[268] as well as by several state agencies.[269] These commenters argue that, contrary to the Commission's assertions in the NOPR, increased competition does not afford customers sufficient protection from the pipelines' market power. They state that the Commission itself acknowledges that pipelines still possess market power in the long-term market where the right of first refusal is applicable, and for that reason did not propose to eliminate rate regulation in the long-term market. They argue that removing the five-year cap would require the shipper to commit to capacity for a term well beyond what would be prudent in light of the risks of doing business in the evolving market place. In addition, they argue that eliminating the right of first refusal or the five-year cap is not legally justified in light of the court's decision in *UDC* v. *FERC.*

Several of these commenters argue that the Commission should strengthen the right of first refusal by reducing the term-matching cap.[270] For example, ConEd argues that a one-year cap is appropriate because LDCs must be able to assemble economically priced packages of transportation capacity without putting reliability at risk or needlessly creating stranded costs. Several parties, including Brooklyn Union/Keyspan and Consolidated Edison of New York, ask the Commission to enhance the right of first refusal by clarifying that an existing shipper may exercise its right of first refusal as to a geographic portion of the existing contract.

[268] For example, AGA, APGA, Allied Signal, American Forest & Paper Assoc., Amoco Energy Trading Co., *et al.,* Atlanta Gas Light, Brooklyn Union Gas Co. and Keyspan Gas, Colorado Springs Utilities, Columbia LDCs, Consolidated Edison Co. of New York, the Fertilizer Institute, Florida Cities, FPL Group, and New England Gas Distributors.

[269] *E.g.,* Illinois Commerce Commission, Minnesota Department of Public Service, Pennsylvania Office of Consumer Advocate and Pennsylvania Public Utility Commission, New York Public Service Commission, Wisconsin Public Service Commission, Ohio Public Utilities Commission.

[270] For example, Brooklyn Union and Keyspan Gas, Consolidated Edison Co. of New York, and New England Gas Distributors argued that the term matching cap should be reduced to one year. The Pennsylvania Office of Consumer Advocate and the Pennsylvania Public Utility Commission suggested shortening the matching cap to two years, and revisiting the issue periodically. PSE&G suggested shortening the term to 2–3 years. AGA also suggested shortening the term.

On the other hand, the pipelines [271] argue that the right of first refusal should be eliminated because it no longer serves any purpose since increased competition affords customers protection from monopoly power. If the right of first refusal is not eliminated in its entirety, they argue that at a minimum, the term-matching cap should be removed. These parties assert that the right of first refusal reduces competition and distorts the competitive environment by denying the pipeline and a willing third party the right to contract for longer than the cap period. Further, they argue that the right of first refusal places disproportionate risks on the pipelines because the pipeline must bear the risk of standing ready to serve the existing shipper indefinitely, while the shipper has no such obligation.

2. Discussion

The purpose of the right of first refusal is to protect captive long-term customers from the pipelines' exercise of monopoly power.[272] It is based on the customer's reliance on the pipeline for its historical service.[273] It protects existing customers by providing them with the right to continue their existing service by matching the highest competitive bid for the service, up to the maximum rate and up to a period of five years. At the same time, by requiring that existing customers match competitive bids, the right of first refusal recognizes the role of market forces in determining contract price and term.

As markets become more competitive, and the secondary market continues to develop, it may become unnecessary to protect any customer with a right of first refusal. However, upon consideration of the comments, the Commission has determined that it cannot at this time reach the conclusion that all long-term shippers have sufficient competitive options to warrant elimination of the right of first refusal in its entirety. The Commission, therefore, will retain a right of first refusal and will retain, for the present, the five-year matching cap. However, the right of first refusal will apply in the future only to maximum rate contracts for 12 or more consecutive months of service.

Limiting the right of first refusal to maximum rate contracts of 12 or more consecutive months of service is consistent with its original purpose to protect long-term captive customers from the pipeline's monopoly power. If the customer is truly captive and has no alternatives for service, it is likely that its contract will be at the maximum rate. Shippers that are not captive customers and have alternatives in the marketplace do not need the protection of the right of first refusal.

In addition, the ROFR will apply only when the contract provides for 12 or more consecutive months of service. This is a different result than the Commission reached in *North American Energy Conservation, Inc.* v. *CNG Transmission Corp.*[274] under the current regulations, which provide that the right of first refusal applies to ''a contract with a term of one year or more.'' [275] In that case, the Commission concluded that the right of first refusal applied to a contract with a duration of 15 months that provided for two noncontinuous periods of seasonal service, each one of which was for less than 12 months. The Commission held that, under the current regulations, it was the term of the contract rather than the term of the service that determined the applicability of the right of first refusal. In the future, the right of first refusal will apply only when the contract provides for at least 12 consecutive months of service; it will be the term of the service rather than the term of the contract that will determine the applicability of the right of first refusal. Again, this is consistent with the purpose of the right of first refusal to protect long-term captive customers. Seasonal service is short-term service, even if the contract providing for the service is of a duration of more than a year, and the right of first refusal is intended to protect long-term customers.

With this modification captive customers still will be able to continue to receive their historical service as long as they pay the maximum rate. And, the pipeline is not disadvantaged by the right of first refusal if the contract is at the maximum rate. However, if a shipper has sufficient alternatives that it can negotiate a rate below the just and reasonable rate, it should not have the protection afforded by the right of first refusal. In these circumstances, the pipeline should be able to negotiate with other interested shippers. This limitation on the right of first refusal strikes the appropriate balance between the need to protect captive customers and the need to better balance the risks between the shipper and the pipeline.

[271] *E.g.,* INGAA, Williams, Tejas, Williston, Enron Interstate Pipelines.

[272] UDC v. FERC, 88 F.3d 1105, 1140 (D.C. Cir. 1996), *cert denied,* 117 S. Ct. 1723 (1997); Order No. 636–C, 78 FERC ¶ 61,186 at 61,772–773 (1997).

[273] *Id.*

[274] 88 FERC ¶ 61,255, *reh'g,* 89 FERC ¶ 61,122 (1999).

[275] 18 CFR 284.221(d)(2).

The maximum rate that the existing shipper must meet in order to exercise its right of first refusal may be higher than its current rate. The Commission's regulations provide that a shipper whose contract is expiring is entitled to renew that contract by matching the highest bid up to the maximum rate,[276] but, there is nothing in the right of first refusal that guarantees that the maximum rate will remain the same. The Commission recognized in its recent Policy Statement concerning Certification of New Interstate Natural Gas Pipeline Facilities (Certificate Policy Statement),[277] that a shipper exercising its ROFR could be required to match a bid up to a maximum rate higher than the historic maximum rate applicable to its capacity in certain limited circumstances: when a pipeline expansion has been completed and an incremental rate exists on the system; the pipeline is fully subscribed; and there is a competing bid above the maximum pre-expansion rate applicable to existing shippers.[278]

The existing customers should not be required to subsidize expansion projects that are implemented during the term of their contracts. While their contracts are in effect, it would be inequitable to raise their rates to include the costs of expansion projects that will not be used to provide them with service. Thus, it is logical to price the new project incrementally and without subsidies from the rates of the existing shippers. However, when the existing customer's contract expires, the existing customer should be treated similarly to new customers for pipeline capacity, who face rates higher than the pre-expansion historic rate.[279] Under the policy conditions established by the Commission (fully subscribed expansion, at least one bid above the existing rate, and a rate mechanism established in advance), there would be insufficient capacity to satisfy all the demands for service on the system. When insufficient capacity exists, a higher matching rate will improve the efficiency and fairness of capacity allocation, within the limits imposed by cost-of-service ratemaking, by allowing new shippers who place greater value on obtaining capacity than the existing shipper to better compete for the limited capacity that is available.

The logic for using a higher matching rate would not apply if the system were not fully utilized, and in those circumstances, the existing customer could exercise its right of first refusal by agreeing to pay the historic maximum rate. This protects an existing captive customer against the exercise of market power by the pipeline because the pipeline cannot insist on the shipper paying a higher rate unless its expansion is fully subscribed and there is another bid for capacity at a rate above the historic maximum rate charged the existing shipper. These conditions ensure that the pipeline is unable to use its market power over captive customers to withhold capacity from the market to raise price. Price will exceed the current maximum rate charged the existing shipper only when a higher price is needed to allocate scarce capacity.

As the Commission explains in the Certificate Policy Statement,[280] to adjust the maximum rate applicable to shippers exercising their ROFR in these circumstances, the pipeline would have to establish a mechanism for reallocating costs between the historic and incremental rates so all rates remain within the pipeline's cost-of-service.[281] The mechanism can be established either through a general section 4 rate case or through the filing of *pro forma* tariff sheets which would provide the Commission and the parties with an opportunity to review the proposal prior to implementation. The Commission would review the proposed mechanism to determine how well it achieves the following objectives: capacity pricing that permits as efficient an allocation of capacity as is possible under cost-of-service ratemaking; protection against the exercise of market power by the pipeline (through withholding of capacity, for example, or the potential for skewed bidding); protection against the pipeline's overrecovery of its revenue requirement; and equity of treatment between shippers with expiring contracts and new shippers to the system seeking comparable service.

Application of this approach could lead to rates for shippers exercising their ROFR that are higher than their existing vintaged rate. But this will occur only if the preconditions are met—the pipeline is full and there is a competing bid higher than the pre-expansion rate so that a higher rate is needed to allocate available capacity—and the Commission has accepted the pipeline's mechanism for determining rates as just and reasonable.

In the Certificate Policy Statement, the Commission explained that it is important for the rates for the new capacity to send the correct price signals so that shippers can decide whether the new capacity is really needed. As the Commission further explains in its clarification order in that proceeding, there is tension between sending efficient pricing signals to expansion customers and to customers whose contracts are expiring, while remaining within the pipeline's revenue requirement. There may be a number of ways to recompute rates to effectively balance these interests. The Appendix to that order provides two examples of potential approaches to the recomputation of rates, one in which the expansion rate is recomputed to establish the maximum matching rate and the other where the system average rate is used as the matching rate. Under these approaches, as contracts of existing shippers expire, the costs and contract demand represented by these contracts are reallocated between the existing and expansion service without changing the pipeline's overall revenue requirement.

The Commission will not change the length of the term matching cap at this time. The Commission concluded in Order No. 636–C that a five-year cap was appropriate given the evidence in that record of industry trends in contract length.[282] The record there showed that five years was the median length of long-term contracts entered into since January 1, 1995.[283] None of the commenters presented evidence to support the conclusion that a five year contract is atypical in the current market. [284]

Further, the Commission will not enhance the right of first refusal by holding that it can be exercised for a

[276] 18 CFR 284.221(d)(1999).

[277] Docket No. PL99–3–000, FERC ¶ 61,277 (1999).

[278] Under this procedure, the pipeline cannot require the existing shipper to pay a rate higher than that of competing bidder. For example, if the historic maximum rate is $1/MMBtu, the maximum rate the existing shipper has to match is $2/MMBtu, and the competing bid is $1.50/MMBtu, the pipeline must sell the capacity to the existing shipper if it is willing to match the $1.50 bid.

[279] *Cf.* PG&E Gas Transmission, Northwest Corporation, 82 FERC ¶ 61,289, at 62,124–26 (1998) *aff'd Washington Water Power Co.* v. *FERC*, No. 98–1245 (D.C. Cir. Feb. 1, 2000) (for permanent releases of capacity taking place after an expansion, the replacement shippers should pay the same rate as the expansion shippers).

[280] Docket No. PL 99–3000, Order Clarifying Statement of Policy

[281] *Cf.* Viking Gas Transmission Company, 89 FERC ¶ 61,204 (1999) (rejecting tariff filing to raise matching rates under a ROFR where, among other things, the filing did not readjust existing and expansion rates).

[282] Order No. 636–C, 78 FERC at 61,773–74.

[283] 78 FERC at 61,774.

[284] Several commenters suggested that the Commission should take additional evidence on current contract length and reduce the length of the cap if that evidence warrants. See, *e.g.,* comments of New England Gas Distributors. The Commission could undertake this analysis of industry trends in a future proceeding, but will retain the five-year cap for the present.

geographic portion of the existing contract, as requested by several commenters. The purpose of the right of first refusal is to protect the captive customer's historical service, and therefore it should apply only when the existing shipper is seeking to contract for its historical capacity. The right of first refusal is a limited right and it was never intended to permit shippers to increase or change their service.[285] It is intended to be a means of defense against pipeline market power, not a mechanism to award an existing shipper a preference over a new shipper for different service.

In Order No. 636–B, the Commission clarified that the right of first refusal permits the existing capacity holder to elect to retain a volumetric portion of its capacity subject to the right of first refusal, and permit the pipeline's pregranted abandonment to apply to the remainder of the service.[286] The Commission has explained that this is intended to ensure against the inefficient or unnecessary retention of capacity at the expiration of the contract.[287] Unbundling has reduced the role of LDCs in providing transportation service. In 1998, over 80 percent of industrial users purchased their capacity directly from the pipeline or from marketers rather than from an LDC.[288] Allowing LDCs to decrease their contractual volumes when they exercise the right of first refusal makes this capacity available to industrials and marketers. Thus, under the right of first refusal, if the LDC's market shrinks because its former sales customers are purchasing their own gas in the wholesale market, the LDC can reduce the volumes it has under contract.

However, Order No. 636 did not include within the right of first refusal the option to contract for a geographic portion of the historical capacity, and permitting an existing shipper to exercise its right of first refusal for a geographic portion of its historical service is not consistent with its purpose. A shipper that can terminate a geographic portion of its historical service must have alternatives in the marketplace that can substitute for its historical service, and therefore is not a captive customer that requires the protection of the right of first refusal. In its comments, Con Ed gives an example of a shipper that has a contract for service from the pipeline's production area to points in the market area, and argues that the shipper should be able to retain its right of first refusal to capacity in the market area without being required to retain capacity in the production area. In this example, the shipper clearly has competitive options for transporting its gas and does not need the protection of a right of first refusal to protect its historical service.

Moreover, permitting the exercise of the right of first refusal for a geographic portion of the historical capacity could leave the capacity unused and thus burden the pipeline and its other customers with the cost of this unused capacity. This is the significant distinction between permitting a shipper to exercise its right of first refusal for a portion of the contractual volumes and permitting a shipper to exercise its right of first refusal for less than the full length of haul. With the development of the pipeline grid, the need to hold capacity to access traditional supply areas has diminished and thus there is more likelihood that reductions in geographic capacity will lead to unused capacity on some segments. In contrast, exercise of the right of first refusal for less than the full contractual volume is unlikely to have the same impact on the pipeline and its shippers because with retail unbundling that capacity is likely to be contracted to move gas to the end-users previously served by the LDC. Gas consumption has not been shrinking, rather the contracting patterns have been changing.

Therefore, maintaining the Commission's current policy and not expanding the right of first refusal beyond its original scope as set forth in Order No. 636 strikes the appropriate balance between protecting the historic service of the captive customer and not burdening the pipeline and its other customers with unused capacity.

The Commission's ruling that a shipper cannot exercise its right of first refusal for a portion of its length of haul is also consistent with the rationale of the court's decision in *Municipal Defense Group* v. *FERC*.[289] In that decision, the court upheld the Commission's approval in *Texas Eastern Transmission Corp.*,[290] of a proposal by the pipeline to award new capacity on the basis of a net present value determination. The Commission held that while the small customers had special treatment for their existing service,[291] they must compete on an equal basis with other customers for additional capacity. The court agreed, and stated that there was no reason to extend the special treatment given to small customers beyond their existing service in order to enable them to increase their capacity at a subsidized rate. Similarly, there is no basis for permitting customers with a right of first refusal to use that right to obtain an advantage over other customers in seeking to change their service to a shorter haul.

Several parties ask the Commission to clarify that shippers who have rollover or evergreen clauses in their contracts have the right to terminate a volumetric portion of that contract and exercise their right of first refusal with regard to the remaining portion of the contract.[292] These parties state that clarification is necessary because certain pipelines have taken the position that the right of first refusal protects only shippers whose contracts do not contain rollover or evergreen clauses. The commenters state that these pipelines have concluded that while the right of first refusal permits a customer to renew its contract for less that its full MDQ, this right does not extend to a customer with a rollover contract. The commenters state that clarification of this issue is necessary at this time because many LDC long-term contracts will be expiring over the next few years.

There are two possible sources of a shipper's right of first refusal. First, shippers have the right of first refusal as provided in the Commission's regulations. Thus, all shippers with a qualifying contract, (*i.e.*, a contract of 12 months or more and, in the future, at the maximum rate), can continue to receive their service from the pipeline by matching the rate, up to the maximum rate, and the length of service, up to a period of five years, of a competing bid for that service. Under the right of first refusal conveyed by § 284.221(d) of the regulations, shippers always have this regulatory right of first refusal, regardless of the provisions of their contract.

Second, a pipeline and its shippers may agree to include a right of first refusal roll-over or evergreen clause in their contracts. If a contractual right of first refusal, rollover or evergreen clause

[285] As the Commission stated in Williams Natural Gas company, 65 FERC ¶ 61,221 at 62,013 (1993), ''the character of the service being provided under the expiring contract cannot be changed through use of the right of first refusal.''

[286] Order No. 636–B at 30,634–35.

[287] Williams Natural Gas Co., 83 FERC ¶ 61,052 at 61,299 (1998).

[288] Energy Information Administration, Natural Gas Annual 1998, 35–37, 39, 41 (October 1999).

[289] 170 F.3d 197 (D.C. Cir. 1999).

[290] 79 FERC ¶ 61.258 (1997), *reh'g,* 80 FERC ¶ 61,270 (1997).

[291] Small customers received a discounted rate on the pipeline pursuant to a settlement in the pipeline's Order No. 636 proceeding, and argued that the net present value method would be prejudicial to them because the value of their bids would be less that the value of bids of larger customers paying a higher rate.

[292] See comments of AGA and Con Ed.

would allow the shipper to exercise a right of first refusal in situations where the regulatory right would not apply, the shipper may rely on its contractual rights in lieu of the regulatory right of first refusal. The choice is for the shipper to make. But, the shipper always has, at a minimum, the regulatory right of first refusal. As the Commission recently stated, ''a ROFR is a regulatory right that may achieve the same purpose as a contractual rollover, but it is a right guaranteed by the regulations and not dependent on the contract.'' [293] Under the right of first refusal in § 284.221(d), which is an exercise of the Commission's abandonment authority under NGA Section 7(b), a contractual right of first refusal may broaden the regulatory right of first refusal, but it may not narrow it.

The regulatory right of first refusal includes the right of the existing shipper to elect to retain a volumetric portion of its capacity subject to the right of first refusal, and permit the pipeline's pregranted abandonment to apply to the remainder of the service.[294] Therefore, the Commission clarifies that a customer with a contract that qualifies for a regulatory right of first refusal may exercise that regulatory right for a volumetric portion of the capacity, regardless of whether the contract contains a rollover or evergreen clause.

Existing discounted long-term contracts that are now subject to the right of first refusal will be grandfathered, and the right of first refusal will apply at their expiration. However, the new rate limitation will apply to any of the contracts that are re-executed and, therefore, the right of first refusal will not apply if the re-executed contracts are not at the maximum rate. The grandfathering of current contracts gives all shippers notice of the new limitation, and the opportunity to re-execute their current contracts in view of this change. Further, the provisions of the pipelines' current tariffs will continue to govern the right of first refusal process until the pipeline files revised tariff sheets to limit the right of first refusal consistent with this discussion.

B. Negotiated Terms and Conditions of Service

In the Commission's policy statement on Alternatives to Traditional Cost-of-Service Ratemaking,[295] the Commission set forth its policy permitting pipelines the flexibility to negotiate rates so long as the shipper continued to have the option of choosing recourse service from the pipeline. The availability of a recourse service at just and reasonable rates was considered to provide reasonable protection against the exercise of market power. But the Commission at the time expressed concern about whether to permit individual negotiation of terms and conditions of service and requested further comment on whether such flexibility should be permitted. In the NOPR, the Commission proposed to permit pipelines to file tariff provisions providing for pre-approved authority to negotiate terms and conditions of service without making a separate tariff filing, so long as the pipeline adhered to a series of requirements intended to protect against degradation of recourse service.

There was a significant split among the commenters on this issue. Pipelines and LDCs strongly supported the implementation of negotiated terms and conditions of service as ways in which pipelines could attract new customers, particularly gas fired electric generation and industrial customers.[296] INGAA asserts, for instance, that gas fired electric generation has service requirements that differ from those provided in typical tariff-based services. AGA similarly asserts that permitting negotiation of services will permit pipelines to tailor services to fit the different circumstances of individual customers. Those supporting pre-approval for negotiated terms and conditions maintain that the Commission can provide adequate oversight to avoid undue discrimination, degradation of recourse service, and reduced competition.

Those on the other side were equally vociferous in opposing pre-approval for negotiated terms and conditions of service.[297] These parties argue that the need for negotiated terms and conditions has not been demonstrated, because open access tariffs have been successful in serving all types of customers, and that even without pre-approval for negotiated terms and conditions of service, the electric generation market has shown the greatest growth of any natural gas consumption segment. These parties argue that allowing pipelines to negotiate terms and conditions of service gives rise to significant dangers to competitive markets, including the danger of discrimination in pricing, timing, and terms of service and that negotiated terms and conditions exacerbates affiliate advantages, permits pipelines to degrade recourse services, and harms the secondary market which depends on the sale of a uniform product. Moreover, they argue that the protections proposed by the Commission to avoid problems created by negotiated terms and conditions of service raise problems of their own and will not prevent the degradation of recourse service. These parties assert that instead of permitting negotiated terms and conditions, the Commission should continue to enhance the flexibility of tariff services.

The Commission has determined not to provide pipelines, at this time, with authority to file for pre-approval of the right to negotiate terms and conditions of service with individual customers. Given the changes occurring in the marketplace, it is not yet clear that pre-approval for negotiated terms and conditions is necessary. Although pipelines and some gas fired generators support allowing negotiation of terms and conditions of service that will directly address the generators' service needs,[298] other generators are not convinced that such negotiation flexibility is necessary or that it outweighs the risks of discrimination to those not receiving the negotiated services.[299] Pipelines also have been able to create open access tariff-based services with enhanced flexibility for scheduling and handling imbalances without having to negotiate terms and conditions of service with individual shippers.[300] Indeed, in this rule, the Commission is requiring that pipelines provide imbalance management services that will better enable all customers to deal with the potential risks of imbalance penalties.

The negotiation of terms and conditions of service further is directly related to the question whether the Commission needs to revise fundamental aspects of its regulatory policy to accommodate a dual market

[293] *North American Energy Conservation, Inc.* v. *CNG Transmission,* 88 FERC ¶ 61,255 at 61,809 (1999).

[294] Order No. 636–A, FERC Stats. & Regs. (1991–1996) ¶ 30,950 at 30,635 (1992).

[295] Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines, and Regulation of Negotiated Transportation Services of Natural Gas Pipelines, 61 FR 4633 (Feb. 7, 1996), 74 FERC 61,076 (1996).

[296] *See* Comments of AGAI, INGAA, Southern Natural, Williams, Coastal Companies, Enron Capital and Trade.

[297] *See* Comments of Amoco Energy Trading, Arkansas Gas Consumers, Dynegy, Indicated Shippers, NGSA, Process Gas Consumers Group, PSC Wisconsin.

[298] *See* Comments of Sithe, Sempra Energy, EEI.

[299] *See* Comments of Midland, Florida Cities, Dynegy, FPL.

[300] *See* Reliant Energy Gas Transmission Company, 87 FERC ¶ 61,228 (1999) (hourly flexibility service designed to meet needs of gas generators); Mojave Pipeline Company, 79 FERC ¶ 61,347 (1997); Colorado Interstate Gas Company, 83 FERC ¶ 61,273 (1998) (parking and loan service).

structure in which some shippers with sufficient alternatives and negotiating leverage want to negotiate rates and terms and conditions of service while other shippers remain captive, still subject to the pipeline's market power and to undue discrimination. The development of a two-track regulatory model, as discussed earlier, requires further study of the interrelation between various aspects of Commission regulatory policy, such as whether rates should continue to support pipeline revenue requirements and how rates should be designed in a dual market to protect captive customers.

In light of the questions about the need for and effects of negotiated terms and conditions and the interrelation between negotiated terms and conditions of service and other long-term regulatory issues that were not the subject of this proceeding, the Commission has decided not to move forward at this time to provide pipelines with pre-approval to negotiate terms and conditions of service. To the extent that pipelines, in certain circumstances, find that they are unable to file an open access tariff-based service to accommodate particular needs, and that individual negotiation is the only feasible method of providing service to a particular shipper, the pipeline is still permitted under the Commission's regulations to file a non-conforming contract with the Commission.[301] Such a filing has to be made at least 30 days prior to the proposed effective date,[302] which gives other parties and the Commission the opportunity to review all aspects of the non-conforming contract to determine whether the contract is unduly discriminatory or preferential or would negatively affect the service provided to other shippers.

The determination not to move forward at this juncture with pre-approved negotiated terms and conditions of service raises the question of how the Commission will differentiate between negotiated rates, permissible under the Commission's negotiated rates policy,[303] and negotiated terms and conditions of service. While formulating a generic definition of rate applicable to all potential situations is not possible, the Commission generally considers negotiated terms and conditions to be related to operational conditions of transportation service. A negotiated rate would not include conditions or activities related to the transportation of gas on the pipeline, such as scheduling, imbalances, or operational obligations, such as OFOs. By contrast, negotiated rate agreements can include the price, the term of service, the receipt and delivery points, and the quantity.

VI. Reorganization of Part 284 Regulations

The Commission is reorganizing certain portions of its part 284 regulations to better reflect the nature of services in the short-term market and to consolidate its Part 284 reporting and filing requirements in a single section. Aside from the regulatory revisions discussed in the body of the preamble, the Commission is not making substantive changes to the regulations, but is making changes to conform its regulations with the new organizational structure.

Because capacity release has become an integral part of the short-term market, the Commission is moving its capacity release regulations from subpart H of part 284 to the same location in its regulations as pipeline firm and interruptible service (newly designated § 284.7 (firm service), § 284.8 (release of firm service), and § 284.9 (interruptible service)).[304]

In addition, reporting and filing requirements for pipeline services under part 284 are presently scattered throughout Part 284. For example, the Index of Customers and storage reports are presently located in subpart B, § 284.106, which deals with interstate pipelines performing transportation service under the Natural Gas Policy Act (NGPA). But these regulations are then applied to interstate pipelines performing open access services in subpart G, § 284.223. Other reporting requirements are located throughout various substantive provisions of Part 284.[305] The Commission is collecting these requirements into new § 284.13 applicable to interstate pipelines transporting gas under Subpart B (transportation under section 311 of the NGPA) and Subpart G (open access transportation under the NGA). Reporting requirements specific to Subpart B pipelines (by-pass reports) remain in subpart B.

Commenters did not object to the reorganization. Dynegy contends the Commission should not be proposing a requirement for pipelines to file the semi-annual storage report in § 284.14(e) which discloses shippers' names. But the semi-annual storage report is not a new requirement. Pipelines were required to provide this information under existing § 284.102 (b), and the Commission finds no basis for removing a currently applicable requirement. The storage report, however, is being revised to eliminate section (6) requiring pipelines to file the related docket numbers in which the pipeline reported storage related injections and withdrawals. This information is no longer relevant since, after Order No. 636, pipelines are no longer required to file the ST reports on which the injection and withdrawal information was included.

The following is the new outline for subpart A of part 284.

284.1 Definitions.
284.2 Refunds and interest.
284.3 Jurisdiction under the Natural Gas Act.
284.4 Reporting.
284.5 Further terms and conditions.
284.6 Rate interpretations.
284.7 Firm transportation service.
284.8 Release of firm transportation service
284.9 Interruptible transportation service.
284.10 Rates.
284.11 Environmental compliance.
284.12 Standards for pipeline business operations and communications
284.13 Reporting requirements for interstate pipelines.

VII. Implementation Schedule

The regulatory changes made in this rule are being implemented at different times and will require the pipelines to make tariff or *pro forma* tariff filings. The following summarizes the implementation and compliance schedule for the rule.

1. *Maximum Ceiling Rate for Capacity Release Transactions.* The regulation removing the maximum ceiling rate for short-term capacity release transactions will become effective as of the date of this rule. Pipelines must file within 180 days to remove inconsistent tariff provisions and can incorporate this filing into any other tariff filing made by the pipeline within the 180 day period.

2. *Scheduling, Segmentation, Penalty Regulations.* To comply with the regulations governing scheduling of capacity release transactions, segmentation, and penalties, pipelines are required to make *pro forma* tariff filings by May 1, 2000. Thirty days will be provided for the filing of comments and protests. After review of the filing and comments or protests, the

[301] 18 CFR 154.1(d).

[302] 18 CFR 154.207.

[303] Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines, and Regulation of Negotiated Transportation Services of Natural Gas Pipelines 61 FR 4633 (Feb. 7, 1996), 74 FERC 61,076 (1996).

[304] To eliminate redundancy between § 284.7 dealing with pipeline firm service and § 284.9 dealing with pipeline interruptible service, § 284.9 is being revised to cross-reference the sections of § 284.7 that are applicable to both sections.

[305] *See, e.g.*, 18 CFR 284.8(b)(3) and 284.9(b)(3) (requirements to provide information on available capacity), 284.7(c)(6) (discount reports), 284.12 (filing of capacity).

Commission will determine whether further procedures are needed and the effective date for any tariff changes.

3. *Reporting Requirements.* Pipelines must comply with the reporting requirements by September 1, 2000, in accordance with the procedures discussed earlier.

4. *ROFR.* The regulatory change to the ROFR becomes effective on the date this rule becomes effective. Pipelines that have different provisions in their tariffs can, but are not required to, file to modify their existing tariffs to accord with the regulatory changes made in this rule. Until such filing is accepted, the pipeline's current tariff provisions will continue to apply.

VIII. Information Collection Statement

The Office of Management and Budget's (OMB) regulations in 5 CFR 1320.11 require that it approve certain reporting and recordkeeping requirements (collections of information) imposed by an agency. Upon approval of a collection of information, OMB shall assign an OMB control number and an expiration date. Respondents subject to the filing requirements of this Final Rule shall not be penalized for failing to respond to these collections of information unless the collections of information display valid OMB control numbers.

The collections of information related to the subject of this Final Rule fall under FERC–545, ''Gas Pipeline Rates: Rate Change (Non-Formal)'' (OMB Control No. 1902–0154); FERC–549 ''Gas Pipeline Rates: Natural Gas Policy Act; Title III Transactions'' (OMB Control No. 1902–0086); FERC–549B ''Capacity Information'' (OMB Control No. 1902–0169) and FERC–592 ''Marketing Affiliates of Interstate Pipelines'' (OMB Control No. 1902–0157).

Under this Final Rule, the overall reporting requirements will be increased based on the addition of certain information, namely the receipt and delivery point data in transactional reports and the Index of Customers plus organizational and personnel information on affiliates. However, there will also be a reduction in the amount of periodic reporting to the Commission and the elimination of the requirement to submit discount reports. On the whole, the Commission estimates that the revised reporting schedule will increase the existing reporting burden by a total of 77,847 hours. The bulk of the increase will not be extensive, relying not on collecting the data but in creating new formats for displaying the information on the pipelines' Internet websites.

Public Reporting Burden: The burden estimates for complying with this proposed rule are as follows: (reductions in parentheses)

Data collection	No. of respondents	No. of responses per respondent	Estimated burden hours per response	Total annual hours
FERC–545	100	1.4	115.2	16,128
FERC–549	78	1	(2.7)	(211)
FERC–549B	100	333.9	183.86	61,391
FERC–592	74	1	7.28	539
Total				77,847

The total annual hours for collection (including recordkeeping) is estimated to be 77,847.

Information Collection Costs: The average annualized cost for all respondents is projected to be the following (savings in parentheses):

	FERC–545	FERC–549	FERC–549B	FERC–592	Totals
Annualized capital/startup costs	643,529	0.00	1,455,662	0.00	2,099,191
Annualized costs (Operations & maintenance)	221,374	(11,315)	1,836,578	28,905	2,075,542
Total annualized costs	864,903	(11,315)	3,292,240	28,905	4,174,733

Title: FERC–545, 549, 549B and 592.

Action: Proposed Data Collections.

Respondents: Business or other for profit, including small businesses.

Frequency of Responses: On occasion.

Necessity of Information: The proposed rule seeks to establish reporting requirements that will provide information needed for the market to operate more efficiently and for shippers and the Commission to effectively monitor transactions for undue discrimination and the exercise of market power. Information on market structure enables the Commission to know who holds or controls capacity on each portion of the pipeline system, so the potential sources of capacity can be determined. The information required in the current regulations is not as complete as that required in this rule and provides inconsistent information for competing types of capacity, both in terms of the content of the information and the formats used to report the information.

Internal Review: The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information collection requirements. The internal review involves among other things, an examination of the necessity and adequacy of the information required, and the design, cost, reliability, and redundancy of the information. The data collected will enable the industry and the Commission to monitor the structure, conduct, and performance of the gas industry. This information will enable the Commission to monitor changes in the marketplace that affect Commission regulatory policy and help in identifying, and responding to, markets where light-handed regulation may be appropriate as well as markets in which constraints on competition still exist. These requirements conform to the Commission's plan for efficient information collection, communication, and management within the natural gas pipeline industry.

One-hundred-forty-three comments were filed in response to the NOPR. While the Commission did not receive any comments concerning its estimates for reporting burden, seven entities commented on the additional reporting burden placed upon them by the changes made in this rule. The Commission has addressed their concerns within the preamble of the

rule in the appropriate section. Further, as required under OMB regulations, the Commission submitted the NOPR to OMB for review. OMB noted acceptance of the NOPR, but took no action on the NOPR. In its response, OMB stated that the Commission should submit its information requests when it takes final action.

Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, (Attention: Michael Miller, Office of the Chief Information Officer, Phone: (202) 208–1415, fax: (202) 273–0873, E-mail: *mike.miller@ferc.fed.us*) or the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202) 395–3087, fax: (202) 395–7285.

IX. Environmental Analysis

The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[306] The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[307] The actions taken here fall within categorical exclusions in the Commission's regulations for rules that are clarifying, corrective, or procedural, for information gathering, analysis, and dissemination, and for sales, exchange, and transportation of natural gas that requires no construction of facilities.[308] Therefore, an environmental assessment is unnecessary and has not been prepared in this rulemaking.

X. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act of 1980 (RFA) [309] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The regulations adopted here impose requirements on interstate pipelines, which generally are not small businesses. Accordingly, pursuant to section 605(b) of the RFA, the Commission certifies that the regulations adopted herein will not have a significant adverse impact on a substantial number of small entities.

XI. Document Availability

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.fed.us*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street, N.E., Room 2A, Washington, D.C. 20426.

From FERC's Home Page on the Internet, this information is available in both the Commission Issuance Posting System (CIPS) and the Records and Information Management System (RIMS).

— CIPS provides access to the texts of formal documents issued by the Commission since November 14, 1994.

— CIPS can be accessed using the CIPS link or the Energy Information Online.

The full text of this document will be available on CIPS in ASCII or WordPerfect 8.0 format for viewing, printing, and/or downloading.

— RIMS contains images of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed from FERC's Home Page using the RIMS link or the Energy Information Online icon. Descriptions of documents back to November 16, 1981, are also available from RIMS-on-the-Web; requests for copies of these and older documents should be submitted to the Public Reference Room.

User assistance is available for RIMS, CIPS, and the Website during normal business hours from the Help line at 202–208–2222 (E-Mail to *WebMaster@ferc.fed.us*) or the Public Reference Room at 202–208–1371 (E-Mail to *public.referenceroom@ferc.fed.us*).

During normal business hours, documents can also be viewed and/or printed in FERC's Public Reference Room, where RIMS, CIPS, and the FERC Website are available. User assistance is also available.

XII. Effective Date

These regulations are effective March 27, 2000, with the exception of the removal of paragraph (c)(6) of redesignated § 284.10, which will be effective on September 1, 2000. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is not a ''major rule'' as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996.

List of Subjects

18 CFR Part 154

Natural gas; Pipelines; Reporting and recordkeeping requirements.

18 CFR Part 161

Natural gas; Reporting and recordkeeping requirements.

18 CFR Part 250

Natural gas; Reporting and recordkeeping requirements.

18 CFR Part 284

Continental shelf; Incorporation by reference; Natural gas; Reporting and recordkeeping requirements.

By the Commission. Commissioner Hébert concurred with a separate statement attached.

David P. Boergers,

Secretary.

In consideration of the foregoing, the Commission amends Part 154, Part 161, Part 250, and Part 284, Chapter I, Title 18, *Code of Federal Regulations,* as follows.

PART 154—RATE SCHEDULES AND TARIFFS

1. The authority citation for Part 154 continues to read as follows:

Authority: 15 U.S.C. 717–717w; 31 U.S.C. 9701; 42 U.S.C. 7102–7352.

§ 154.111 [Amended]

2. In § 154.111(a), remove the words ''§ 284.106 or § 284.223'' and add, in their place, the word ''§ 284.13(c)''.

PART 161—STANDARDS OF CONDUCT FOR INTERSTATE PIPELINES WITH MARKETING AFFILIATES

3. The authority citation for Part 161 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352.

4. Section 161.3 is amended as follows:

a. In paragraph (h)(2), revise all references to ''§ 284.10(a)'' to read ''§ 284.12'' wherever it appears, revise the phrase ''Electronic Bulletin Board operated pursuant to'' and add in its place the phrase ''Internet web site operated complying with'' wherever it appears, revise the phrase ''EBB'' and add in its place the phrase'' Internet web site'' wherever it appears, and revise the phrase ''Electronic Bulletin Board'' and add in its place the phrase ''Internet web site'' wherever it appears; and

b. Revise paragraph (l) to read as follows:

[306] Order No. 486, Regulations Implementing the National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986–1990 ¶ 30,783 (1987).

[307] 18 CFR 380.4.

[308] See 18 CFR 380.4(a)(2)(ii), 380.4(a)(5), 380.4(a)(27).

[309] 5 U.S.C. 601–612.

§ 161.3 Standards of conduct

* * * * *

(l)(1) A pipeline must post the names and addresses of its marketing affiliates on its web site on the public Internet and update the information within three business days of any change. A pipeline must also state the date the information was last updated. Postings must conform with the requirements of § 284.12 of this chapter.

(2) A pipeline must post the following information on its Internet web site complying with § 284.12 of this chapter and update the information within three business days of any change, posting the date on which the information was updated:

(i) A complete list of the names of operating personnel and facilities shared by the pipeline and its marketing affiliates; and

(ii) Comprehensive organizational charts showing:

(A) The organizational structure of the parent corporation with the relative position in the corporate structure of the pipeline and all marketing affiliates;

(B) For the pipeline, the business units, job titles and descriptions, and chain of command for all positions, including officers and directors, with the exception of clerical, maintenance, and field positions. The job titles and descriptions must include the employee's title, the employee's duties, whether the employee is involved in transportation or gas sales, and the name of supervisory employees who manage non-clerical employees involved in transportation or gas sales.

(C) For all employees shared by the pipeline and a marketing affiliate, the business unit within the marketing affiliate organizational structure in which the employee is located, the employee's name, job title and job description in the marketing affiliate, and the employees position within the chain of command of the marketing affiliate.

PART 250—FORMS

5. The authority citation for Part 250 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352.

6. Section 250.16 is amended as follows:

a. Paragraph (b)(1) is removed, paragraph (b)(2) is redesignated as (b)(1), and a new paragraph (b)(2) is added and reserved.

b. In paragraph (c)(2), revise all references to ''284.10(a)'' to read ''284.12'' in paragraph (c)(2), revise the phrase ''Electronic Bulletin Board'' and add, in its place, the phrase ''Internet Web site'' and in paragraph (c)(2), revise the phrase ''Electronic Bulletin Boards'' and add, in its place, the phrase ''Internet Web sites''.

PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

7. The authority citation for Part 284 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7532; 43 U.S.C. 1331–1356.

§ 284.12 [Removed]

8. Part 284 is amended by removing § 284.12.

9. Part 284 is amended by redesignating the sections as set forth in the following redesignation table:

Old section	New section
284.7	284.10
284.8	284.7
284.10	284.12
284.243	284.8

10. In newly redesignated § 284.7, paragraph (b)(3) is removed and paragraph (b)(4) is redesignated as paragraph (b)(3), paragraphs (d) and (e) are redesignated as paragraphs (e) and (f) respectively, and new paragraph (d) is added to read as follows:

§ 284.7 Firm transportation service.

* * * * *

(d) *Segmentation.* An interstate pipeline that offers transportation service under subpart B or G of this part must permit a shipper to make use of the firm capacity for which it has contracted by segmenting that capacity into separate parts for its own use or for the purpose of releasing that capacity to replacement shippers to the extent such segmentation is operationally feasible.

* * * * *

11. Newly redesignated § 284.8 is amended as follows:

a. In paragraph (d), revise all references to ''electronic bulletin board'' to read ''Internet web site'' wherever it appears; and

b. Paragraph (i) is added to read as follows:

§ 284.8 Release of firm transportation service.

* * * * *

(i) *Waiver of maximum rate ceiling.* Until September 30, 2002, the maximum rate ceiling does not apply to capacity release transactions of less than one year. With respect to releases of 31 days or less under paragraph (h), the requirements of paragraph (h)(2) will apply to all such releases regardless of the rate charged.

12. In § 284.9, paragraphs (c) and (e) are removed, paragraph (d) is redesignated as paragraph (c), and paragraph (b) is revised to read as follows:

§ 284.9 Interruptible transportation service.

* * * * *

(b) The provisions regarding non-discriminatory access, reasonable operational conditions, and limitations contained in § 284.7 (b), (c), and (f) apply to pipelines providing interruptible service under this section.

* * * * *

§ 284.10 [Amended]

13. In newly redesignated § 284.10, paragraph (c)(6) is removed.

14. In newly redesignated § 284.12, paragraphs (c)(1)(ii) and (c)(2)(iii) through (v) are added to read as follows:

§ 284.12 Standards for pipeline business operations and communications.

* * * * *

(c) * * *

(1) * * *

(ii) *Capacity release nominations.* Pipelines must permit shippers acquiring released capacity to submit a nomination at the earliest available nomination opportunity after the acquisition of capacity. If the pipeline requires the replacement shipper to enter into a contract, the contract must be issued within one hour after the pipeline has been notified of the release, but the requirement for contracting must not inhibit the ability of the replacement shipper to submit a nomination at the earliest available nomination opportunity.

(2) * * *

(iii) *Imbalance management.* A pipeline must provide, to the extent operationally practicable, parking and lending or other services that facilitate the ability of its shippers to manage transportation imbalances. A pipeline also must provide its shippers the opportunity to obtain similar imbalance management services from other providers and shall provide those shippers using other providers access to transportation and other pipeline services without undue discrimination or preference.

(iv) *Operational flow orders.* A pipeline must take all reasonable actions to minimize the issuance and adverse impacts of operational flow orders (OFOs) or other measures taken to respond to adverse operational events on its system. A pipeline must set forth

in its tariff clear standards for when such measures will begin and end and must provide timely information that will enable shippers to minimize the adverse impacts of these measures.

(v) *Penalties.* A pipeline may include in its tariff transportation penalties only to the extent necessary to prevent the impairment of reliable service. Pipelines may not retain net penalty revenues, but must credit them to shippers in a manner to be prescribed in the pipeline's tariff. A pipeline must provide to shippers, on a timely basis, as much information as possible about the imbalance and overrun status of each shipper and the imbalance of the pipeline's system.

* * * * *

15. Part 284 is amended by adding § 284.13 to read as follows:

§ 284.13 Reporting requirements for interstate pipelines.

An interstate pipeline that provides transportation service under subparts B or G of this part must comply with the following reporting requirements.

(a) *Cross references.* The pipeline must comply with the requirements in Part 161, Part 250, and Part 260 of this chapter, where applicable.

(b) *Reports on firm and interruptible services.* An interstate pipeline must post the following information on its Internet web site, and provide the information in downloadable file formats, in conformity with § 284.12 of this part, and must maintain access to that information for a period not less than 90 days from the date of posting.

(1) For pipeline firm service and for release transactions under § 284.8 of this part, the pipeline must post, contemporaneously with the execution or revision of a contract for service:

(i) The full legal name of the shipper, and identification number, of the shipper receiving service under the contract, and the full legal name, and identification number, of the releasing shipper if a capacity release is involved or an indication that the pipeline is the seller of transportation capacity;

(ii) The contract number for the shipper receiving service under the contract, and, in addition, for released transactions, the contract number of the releasing shipper's contract;

(iii) The rate charged under each contract;

(iv) The maximum rate, and for capacity release transactions not subject to a maximum rate, the maximum rate that would be applicable to a comparable sale of pipeline services;

(v) The duration of the contract;

(vi) The receipt and delivery points and zones or segments covered by the contract, including the industry common code for each point, zone, or segment;

(vii) The contract quantity or the volumetric quantity under a volumetric release;

(viii) Special terms and conditions applicable to a capacity release and special details pertaining to a pipeline transportation contract; and

(ix) Whether there is an affiliate relationship between the pipeline and the shipper or between the releasing and replacement shipper.

(2) For pipeline interruptible service, the pipeline must post on a daily basis:

(i) The full legal name, and identification number, of the shipper receiving service;

(ii) The rate charged;

(iii) The maximum rate;

(iv) The receipt and delivery points and zones or segments covered by the contract over which the shipper is entitled to transport gas, including the industry common code for each point, zone, or segment;

(v) The quantity of gas the shipper is entitled to transport;

(vi) Special details pertaining to the contract; and

(vii) Whether the shipper is affiliated with the pipeline.

(c) *Index of customers.* (1) On the first business day of each calendar quarter, an interstate pipeline must file with the Commission an index of all its firm transportation and storage customers under contract as of the first day of the calendar quarter that complies with the requirements set forth by the Commission. The Commission will establish the requirements and format for such filing. The index of customers must also posted on the pipeline's Internet web, in accordance with standards adopted in § 284.12 of this part, and made available from the Internet web site in a downloadable format complying with the specifications established by the Commission. The information posted on the pipeline's Internet web site must be made available until the next quarterly index is posted.

(2) For each shipper receiving firm transportation or storage service, the index must include the following information:

(i) The full legal name, and identification number, of the shipper;

(ii) The applicable rate schedule number under which the service is being provided;

(iii) The contract number;

(iv) The effective and expiration dates of the contract;

(v) For transportation service, the maximum daily contract quantity (specify unit of measurement), and for storage service, the maximum storage quantity (specify unit of measurement);

(vi) The receipt and delivery points and the zones or segments covered by the contract in which the capacity is held, including the industry common code for each point, zone, or segment;

(vii) An indication as to whether the contract includes negotiated rates;

(viii) The name of any agent or asset manager managing a shipper's transportation service; and

(ix) Any affiliate relationship between the pipeline and a shipper or between the pipeline and a shipper's asset manager or agent.

(3) The requirements of this section do not apply to contracts which relate solely to the release of capacity under § 284.8, unless the release is permanent.

(4) Pipelines that are not required to comply with the index of customers posting and filing requirements of this section must comply with the index of customer requirements applicable to transportation and sales under Part 157 as set forth under § 154.111(b) and (c) of this chapter.

(5) The requirements for the electronic index can be obtained from the Federal Energy Regulatory Commission, Division of Information Services, Public Reference and Files Maintenance Branch, Washington, DC 20426.

(d) *Available capacity.* (1) An interstate pipeline must provide on its Internet web site and in downloadable file formats, in conformity with § 284.12 of this part, equal and timely access to information relevant to the availability of all transportation services, including, but not limited to, the availability of capacity at receipt points, on the mainline, at delivery points, and in storage fields, whether the capacity is available directly from the pipeline or through capacity release, the total design capacity of each point or segment on the system, the amount scheduled at each point or segment on a daily basis, and all planned and actual service outages or reductions in service capacity.

(2) An interstate pipeline must make an annual filing by March 1 of each year showing the estimated peak day capacity of the pipeline's system, and the estimated storage capacity and maximum daily delivery capability of storage facilities under reasonably representative operating assumptions and the respective assignments of that capacity to the various firm services provided by the pipeline.

(e) *Semi-annual storage report.* Within 30 days of the end of each complete storage injection and

withdrawal season, the interstate pipeline must file with the Commission a report of storage activity. The report must be signed under oath by a senior official, consist of an original and five conformed copies, and contain a summary of storage injection and withdrawal activities to include the following:

(1) The identity of each customer injecting gas into storage and/or withdrawing gas from storage, identifying any affiliation with the interstate pipeline;

(2) The rate schedule under which the storage injection or withdrawal service was performed;

(3) The maximum storage quantity and maximum daily withdrawal quantity applicable to each storage customer;

(4) For each storage customer, the volume of gas (in dekatherms) injected into and/or withdrawn from storage during the period; and (5) The unit charge and total revenues received during the injection/withdrawal period from each storage customer, noting the extent of any discounts permitted during the period.

16. In § 284.102, paragraph (c) is revised to read as follows:

§ 284.102 Transportation by interstate pipelines.

* * * * *

(c) An interstate pipeline that engages in transportation arrangements under this subpart must file reports in accordance with § 284.13 and § 284.106 of this chapter.

* * * * *

17. In § 284.106, paragraphs (b) through (c) are removed, the paragraph (a) designation and the associated heading are removed, and the section heading is revised to read as follows:

§ 284.106 Notice of bypass.

* * * * *

18. In § 284.221. paragraph (d)(2)(ii) is revised to read as follows:

§ 284.221 General rule; transportation by interstate pipelines on behalf of others.

* * * * *

(d) * * *

(2) * * *

(ii) Gives notice that it wants to continue its transportation arrangement and will match the longest term and highest rate for its firm service, up to the applicable maximum rate under § 284.10, offered to the pipeline during the period established in the pipeline's tariff for receiving such offers by any other person desiring firm capacity, and executes a contract matching the terms of any such offer. To be eligible to exercise this right of first refusal, the firm shipper's contract must be for service for twelve consecutive months or more at the applicable maximum rate for that service.

* * * * *

19. In § 284.223, the paragraph (a) designation is removed and paragraph (b) is removed.

§§ 284.10, 284.123, 284.221, 284.261, 284.263, 284.266, and 284.286 [Amended]

In addition to the amendments set forth above, in 18 CFR part 284, the following nomenclature changes are made:

a. In Subparts B through L, revise all references to ''§ 284.7'' to read ''§ 284.10'' wherever it appears in ''§§ 284.221, 284.261, 284.263, and 284.266.''

b. In Subparts B through L, revise all references to ''§§ 284.8–284.13'' to read ''§§ 284.7–284.9 and §§ 284.11–284.13'' wherever it appears, in ''§§ 284.261 and 284.263.''

c. In newly redesignated §§ 284.10(c)(1) and (c)(2), revise all references to ''§ 284.8(d)'' to read''§ 284.7(e)''.

d. In § 284.123 (b)(1), revise all references to ''§§ 284.8'' to read''§§ 284.7''.

e. In § 284.286(b), revise all references to ''§§ 284.8(b)(2)'' to read ''§§ 284.7(b)(2)''.

f. In section 284.286(c), revise all references to ''§§ 161.3(c), (e), (f), (g), and (h)'' to read ''§§ 161.3(c), (e), (f), (g), (h), and (l)''.

Note. The following Appendix will not appear in the Code of Federal Regulations.

Appendix

Comments Filed in Docket Nos. RM98–10–000 & RM98–12–000 [310]

Commenter	Abbreviation	Docket No.
AEC Marketing (USA) Inc	AEC	RM98–10–000.
Alabama Gas Corporation	Alagasco	RM98–10–000.
Allenergy Marketing Company, LLC, Enron Energy Services, Inc., Enserch Energy Services, Inc. and Statoil Energy, Inc.	Allenergy	RM98–10–000 & RM98–12–000 (joint filing).
Alliance Pipeline L.P	Alliance	RM98–10–000 & RM98–12–000 (joint filing).
AlliedSignal Inc	AlliedSignal I	RM98–10–000.
AlliedSignal Inc	AlliedSignal II	RM98–12–000.
Altra Energy Technologies, Inc	Altra	RM98–10–000.
American Forest & Paper Association	AF&PA I	RM98–10–000.
American Forest & Paper Association	AF&PA II	RM98–12–000.
American Gas Association	AGA I	RM98–10–000.
American Gas Association	AGA II	RM98–12–000.
American Public Gas Association	APGA	RM98–10–000 & RM98–12–000 (joint filing).
Amoco Energy Trading Corporation and Amoco Production Company.	Amoco I	RM98–10–000.
Amoco Energy Trading Corporation, Amoco Production Company, Burlington Resources Oil & Gas Co., and Marathon Oil Company.	Amoco II	RM98–12–000.
Arkansas Gas Consumers	Arkansas Gas Consumers	RM98–10–000.
Arkansas Public Service Commission	Arkansas PSC	RM98–10–000 & RM98–12–000 (joint filing).
Atlanta Gas Light Company	AGLC I	RM98–10–000.
Atlanta Gas Light Company	AGLC II	RM98–12–000.
Baltimore Gas and Electric Company	BG&E I	RM98–10–000.
Baltimore Gas and Electric Company	BG&E II	RM98–12–000.

[310] Parties filing a single document in response to the NOPR in Docket Nos. RM98–10–000 and the NOI in Docket No. RM98–12–000 are denominated as a joint filing.

Commenter	Abbreviation	Docket No.
Brooklyn Union Gas Company and Keyspan Gas East Corporation.	Brooklyn Union	RM98–10–000 & RM98–12–000 (joint filing).
Canadian Association of Petroleum Producers and Alberta Department of Energy.	CAPP/ADOE	RM98–12–000.
City of Hamilton, Ohio	City of Hamilton, Ohio	RM98–10–000.
CMS Panhandle Pipe Line Companies	CMS Panhandle	RM98–10–000 & RM98–12–000 (joint filing).
Coastal Companies	Coastal I	RM98–10–000.
Coastal Companies	Coastal II	RM98–12–000.
Colorado Springs Utilities	Colorado Springs I	RM98–10–000.
Colorado Springs Utilities	Colorado Springs II	RM98–12–000.
Columbia Gas of Kentucky, Inc., Columbia Gas of Maryland, Inc., Columbia Gas of Ohio, Inc., Columbia Gas of Pennsylvania, Inc., and Columbia Gas of Virginia, Inc.	Columbia LDCs	RM98–10–000 & RM98–12–000 (joint filing).
Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company.	Columbia	RM98–10–000 & RM98–12–000 (joint filing).
Conoco Inc	Conoco	RM98–10–000 & RM98–12–000 (joint filing).
Consolidated Edison Company of New York, Inc	ConEd	RM98–10–000 & RM98–12–000 (joint filing).
Consolidated Natural Gas Company	Consolidated Natural I	RM98–10–000.
Consolidated Natural Gas Company	Consolidated Natural II	RM98–12–000.
Consumers Energy Company	Consumers Co	RM98–12–000.
Cove Point LNG Limited Partnership	Cove Point	RM98–10–000.
Delta Natural Gas Company	Delta	RM98–10–000.
Duke Energy Trading and Marketing, LLC	Duke Energy	RM98–10–000 & RM98–12–000 (joint filing).
Dynegy Inc	Dynegy	RM98–10–000 & RM98–12–000 (joint filing).
Edison Electric Institute	EEI	RM98–10–000 & RM98–12–000 (joint filing).
El Paso Energy Corporation Interstate Pipelines	El Paso Energy	RM98–10–000 & RM98–12–000 (joint filing).
El Paso Natural Gas Company	El Paso Natural	RM98–10–000 & RM98–12–000 (joint filing).
Enron Capital & Trade Corporation	Enron Capital	RM98–10–000 & RM98–12–000 (joint filing).
Enron Interstate Pipelines	Enron Pipelines	RM98–10–000 & RM98–12–000 (joint filing).
Entergy Services, Inc	Entergy	RM98–10–000 & RM98–12–000 (joint filing).
Exxon Corporation	Exxon	RM98–10–000 & RM98–12–000 (joint filing).
Fertilizer Institute	Fertilizer Institute	RM98–10–000 & RM98–12–000 (joint filing).
Florida Cities	Florida Cities	RM98–10–000 & RM98–12–000 (joint filing).
Florida Department of Management Services	Florida DMS	RM98–10–000.
Foothills Pipe Lines Ltd	Foothills	RM98–10–000 & RM98–12–000 (joint filing).
FPL Group, Inc	FPL	RM98–10–000 & RM98–12–000 (joint filing).
Illinois Commerce Commission	Illinois Commerce Comm	RM98–10–000 & RM98–12–000 (joint filing).
Illinois Municipal Gas Agency	IMGA	RM98–10–000 & RM98–12–000 (joint filing).
IMD Storage, Transportation and Asset Management Company, LLC.	IMD	RM98–10–000 & RM98–12–000 (joint filing).
Independent Oil and Gas Association of Pennsylvania	IOGA–PA	RM98–10–000 and RM98–12–000 (joint filing).
Independent Oil and Gas Association of West Virginia	IOGA–WV	RM98–10–000 & RM98–12–000 (joint filing).
Independent Oil and Gas Association of New York	IOGA–NY	RM98–10–000 & RM98–12–000 (joint filing).
Independent Oil and Gas Association of Kentucky	IOGA–KY.	
Independent Petroleum Association of America	IPAA	RM98–10–000 & RM98–12–000 (joint filing).
Indicated Shippers	Indicated Shippers	RM98–10–000 & RM98–12–000 (joint filing).
Interstate Natural Gas Association of America	INGAA	RM98–10–000 & RM98–12–000 (joint filing).
Iowa Utilities Board	Iowa	RM98–10–000 & RM98–12–000 (joint filing).
John A. Bell, Jr	John A. Bell, Jr	RM98–10–000.

Commenter	Abbreviation	Docket No.
K N Pipelines, Inc	K N	RM98–10–000 & RM98–12–000 (joint filing).
Koch Gateway Pipeline Company	Koch I	RM98–10–000.
Koch Gateway Pipeline Company	Koch II	RM98–12–000.
Louisville Gas and Electric Company (Jan. & April)	Louisville	RM98–10–000 & RM98–12–000 (joint filing).
Market Hub Partners, L.P	Market Hub Partners	RM98–10–000 & RM98–12–000 (joint filing).
Michigan Consolidated Gas Company	MichCon	RM98–10–000 & RM98–12–000 (joint filing).
Midland Cogeneration Venture Limited Partnership	Midland	RM98–10–000 & RM98–12–000 (joint filing).
Millennium Pipeline Company, L.P	Millennium	RM98–10–000 & RM98–12–000 (joint filing).
Minnesota Department of Public Service	Minnesota	RM98–10–000 & RM98–12–000 (joint filing).
Mississippi Independent	Mississippi Independent	RM98–10–000.
Mississippi Valley Gas Company, Willmut Gas Company, City of Vicksburg, Mobile Gas Service Corporation, Wheeler Basin Natural Gas Company, Clarke-Mobile Counties Gas District.	Mississippi Valley	RM98–10–000 & RM98–12–000 (joint filing).
National Association of State Utility Consumer Advocates	NASUCA	RM98–10–000 & RM98–12–000 (joint filing).
National Association of Regulatory Utility Commissioners	NARUC	RM98–10–000 & RM98–12–000 (joint filing).
National Energy Marketers Association	NEMA	RM98–10–000 & RM98–12–000 (joint filing).
National Fuel Gas Distribution	National Fuel Distribution	RM98–10–000 & RM98–12–000 (joint filing).
National Fuel Gas Supply Corporation	National Fuel	RM98–10–000.
Natural Gas Supply Association	NGSA	RM98–10–000 & RM98–12–000 (joint filing).
New England Gas Distributors	New England	RM98–10–000 & RM98–12–000 (joint filing).
New York Mercantile Exchange	NYMEX	RM98–10–000.
Nicor Gas	Nicor	RM98–10–000.
Nisource, Inc	Nisource	RM98–10–000.
North Carolina Natural Gas Corporation	NC Natural Gas	RM98–10–000 & RM98–12–000 (joint filing).
Northern Municipal Distributors Group and The Midwest Region Gas Task Force Association.	Northern Municipal I	RM98–10–000.
Northern Municipal Distributors Group and The Midwest Region Gas Task Force Association.	Northern Municipal II	RM98–12–000.
Northwest Industrial Gas Users	NWIGU	RM98–10–000 & RM98–12–000 (joint filing).
Northwest Natural Gas Company	NW Natural	RM98–12–000.
Ohio Oil & Gas Association	OOGA	RM98–10–000 & RM98–12–000 (joint filing).
Oklahoma Independent Petroleum Association	OIPA	RM98–10–000 & RM98–12–000 (joint filing).
Paiute Pipeline Company	Paiute	RM98–10–000.
PanCanadian Petroleum Limited and PanCanadian Energy Services, Inc.	PanCanadian	RM98–10–000 & RM98–12–000 (joint filing).
Peco Energy Company	Peco	RM98–12–000.
Pennsylvania Office of Consumer Advocate and the Ohio Consumers' Counsel.	Penn./Ohio Advocate	RM98–10–000 & RM98–12–000 (joint filing).
Pennsylvania Oil & Gas Association	Penn. Oil & Gas Assoc	RM98–10–000 & RM98–12–000 (joint filing).
Pennsylvania Public Utility Commission	Penn. PUC	RM98–10–000 & RM98–12–000 (joint filing).
Peoples Energy Corporation	Peoples Energy I	RM98–10–000.
Peoples Energy Corporation	Peoples Energy II	RM98–12–000.
Pepco Energy Company	Pepco	RM98–12–000.
PG&E Corporation	PG&E	RM98–10–000 and RM98–12–000 (joint filing).
Philadelphia Gas Works	Philadelphia Gas Works	RM98–10–000 & RM98–12–000 (joint filing).
Piedmont Natural Gas Company, Inc. and UGI Utilities, Inc	Piedmont/UGI	RM98–10–000 & RM98–12–000 (joint filing).
Pipeline Transportation Customer Coalition	P/L Customer Coalition	RM98–10–000 & RM98–12–000 (joint filing).
Portland Natural Gas Transmission System	PNGTS	RM98–10–000.
Process Gas Consumers Group—American Iron and Steel Institute, Georgia Industrial Group, Aluminum Company of America and United States Gypsum Company.	Process Gas Consumers I	RM98–10–000.

Commenter	Abbreviation	Docket No.
Process Gas Consumers Group—American Iron and Steel Institute, Georgia Industrial Group, Aluminum Company of America and United States Gypsum Company.	Process Gas II Consumers	RM98–12–000.
Production Area Rate Design Group	Production Area Group	RM98–10–000 & RM98–12–000 (joint filing).
Proliance Energy, LLC	Proliance	RM98–10–000 & RM98–12–000 (joint filing).
Public Service Commission of the State of New York	PSC of New York I	RM98–10–000.
Public Service Commission of the State of New York	PSC of New York II	RM98–12–000.
Public Service Commission of the Commonwealth of Kentucky	PSC of Kentucky	RM98–10–000 & RM98–12–000 (joint filing).
Public Service Commission of Wisconsin	PSC of Wisconsin I	RM98–10–000.
Public Service Commission of Wisconsin	PSC of Wisconsin II	RM98–12–000.
Public Service Electric and Gas Company	PSE&G	RM98–10–000 & RM98–12–000 (joint filing).
Public Utilities Commission of the State of California	CPUC	RM98–10–000 & RM98–12–000 (joint filing).
Public Utilities Commission of Ohio	PUC of Ohio	RM98–10–000.
Regulatory Studies Program of the Mercatus Center, George Mason University.	Mercatus	RM98–10–000 & RM98–12–000 (joint filing).
Reliant Energy Gas Transmission Company and Mississippi River Transmission Corporation.	Reliant	RM98–10–000 & RM98–12–000 (joint filing).
Sempra Energy	Sempra Energy	RM98–10–000 & RM98–12–000 (joint filing).
Shell Energy Services Company, LLC	Shell	RM98–10–000.
Sithe Energies, Inc	Sithe	RM98–10–000 & RM98–12–000 (joint filing).
Southern Company Energy Marketing L.P	Southern Co. Energy	RM98–10–000.
Southern Company Services, Inc	Southern Co. Services	RM98–10–000 & RM98–12–000 (joint filing).
Southern Natural Gas Company	Southern Natural	RM98–10–000 & RM98–12–000 (joint filing).
Southwest Gas Corporation	Southwest Gas	RM98–10–000 & RM98–12–000 (joint filing).
Tejas Offshore Pipelines, LLC	Tejas I	RM98–10–000.
Tejas Offshore Pipelines, LLC	Tejas II	RM98–12–000.
Tennessee Valley Authority	TVA	RM98–10–000 and RM98–12–000 (joint filing).
Texas Eastern Transmission Corporation and Algonquin Gas Transmission Company.	TETCO/Algonquin	RM98–10–000 & RM98–12–000 (joint filing).
The Customer Coalition	The Customer Coalition	RM98–10–000.
The Railroad Commission of Texas	TRRC	RM98–10–000 & RM98–12–000 (joint filing).
TransCanada Gas Services, A Division of TransCanada Energy, LTD.	TransCanada	RM98–10–000 & RM98–12–000 (joint filing).
TransCapacity Limited Partnership	TransCapacity	RM98–10–000.
UGI Utilities, Inc	UGI	RM98–10–000 and RM98–12–000 (joint filing).
Vector Pipeline L.P	Vector	RM98–10–000 & RM98–12–000 (joint filing)
Washington Gas Light Company	WGL I	RM98–10–000.
Washington Gas Light Company	WGL II	RM98–12–000.
Williams Companies, Inc	Williams I	RM98–10–000.
Williams Companies, Inc	Williams II	RM98–12–000.
Williston Basin Interstate Pipeline Company	Williston Basin	RM98–10–000 & RM98–12–000 (joint filing).
Wisconsin Distribution Group	Wisconsin Distributors	RM98–10–000 & RM98–12–000 (joint filing).

Hebert, Commissioner, *concurring.*

Without question, the steps taken in this rule, with one exception, are a significant victory for pricing flexibility necessary to stride confidently toward a market-based approach for transportation of natural gas instead of retaining elements of price controls.

The removal of the price cap on capacity release transactions provides multiple benefits to the marketplace. Capacity release transactions become a viable alternative to bundled sales of natural gas. The incentive provided by the alternative will result in a more efficient use of existing capacity, storage facilities and peak shaving devices. Revenues resulting from capacity release transactions can materially benefit customers by reducing cost shifting. Peak and off-peak rates should also benefit customers in future rate proceedings through minimizing discounts during off-peak periods.

Through this rule, I believe this Commission will gain a better understanding of the value of pipeline capacity and will provide proper pricing alternatives to the industry. It remains vital to the consumer that market demand for capacity not be ignored, nor unaddressed, in our efforts to ensure a reliable and sufficient infrastructure for the transportation of natural gas. I can only hope this Commission will

embrace the need for capacity, specifically the northeast. In light of the concerns vehemently expressed by Secretary Richardson on the rising price of heating oil in the northeast, this Commission must act in a reasonable manner and with the interest of the consumers at heart, wherever they are located. Delay, as well as unnecessary environmental and economic hurdles remain unacceptable.

Further, the two-year waiver period concerning the removal of the price caps on capacity release transactions is also unacceptable. The data provided to me appears clear and convincing that removal of the price caps is a positive and substantiated step designed to benefit the consumer. The studies, contained in this docket as well as the information gathered by the staff, are more than sufficient to justify a permanent removal of the price caps. I will continue to advocate this position in order to ultimately remove the price caps of capacity release transactions. This Commission needs to move toward price reforms, not price controls.

Therefore, I respectfully concur.

Commissioner Curt L. Hébert, Jr.

[FR Doc. 00–3595 Filed 2–24–00; 8:45 am]

BILLING CODE 6717–17–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket Nos. RM94–10–000, RM96–7–000, RM96–14–003, RM98–11–000]

Termination of Rulemaking Proceedings

Issued February 9, 2000.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Proposed rulemaking: termination of rulemaking proceedings.

SUMMARY: The Federal Energy Regulatory Commission has determined that it will take no further action in Docket Nos. RM94–10–000, RM96–7–000, RM96–14–003, and RM98–11–000, and, therefore, the dockets are closed.

DATES: These dockets are terminated upon issuance of the order.

SUPPLEMENTARY INFORMATION:

	Docket No.
Secondary Market Transactions on Interstate Natural Gas Pipelines	RM96–14–003
Rate Design for Interstate Natural Gas Pipelines	RM98–11–000
Regulation of Negotiated Transportation Services of Natural Gas Pipelines	RM96–7–000
Petition of United Distribution Companies for Rulemaking Regarding the Secondary Market	RM94–10–000
Transwestern Pipeline Company Pacific Gas and Electric Company Southern California Gas Company	RP96–352–002
Columbia Gas Transmission Company	RP96–356–001
Columbia Gulf Transmission Corporation	RP96–355–001
Mountaineer Gas Company	RP96–372–001
Central Hudson Gas & Electric Corp	RP96–371–001
Orange and Rockland Utilities, Inc	RP96–382–001
Transcontinental Gas Pipe Line Company	RP96–360–001
Brooklyn Union Gas Company	RP96–369–001
Washington Gas Light Company	RP96–368–001
National Fuel Gas Distribution Company	RP96–353–001
Kern River Gas Transmission Company	RP96–370–001
Boston Gas Company	RP96–373–001
Arizona Public Service Company	RP96–379–001

Order Terminating Proceedings

This order terminates the above-captioned proceedings. The matters at issue in these proceedings have been resolved by the Final Rule issued contemporaneously with this order by the Commission in Regulation of Short-Term Natural Gas Transportation Services, Docket No. RM98–10–000, and Regulation of Interstate Natural Gas Transportation Services, Docket No. RM98–12–000.

In Secondary Market Transactions on Interstate Natural Gas Pipelines, Docket No. RM96–14–000, the Commission proposed changes to its capacity release policies, and proposed to institute a pilot program to permit shippers releasing capacity and pipelines selling interruptible capacity to sell at rates above the pipeline's maximum tariff if they could demonstrate that they did not have market power in the secondary market. Applications to participate in the pilot program were filed by a number of pipelines and LDCs. Specifically, Transwestern Pipeline Co., Pacific Gas and Electric Co., and Southern California Gas Co. filed a joint application to participate in the pilot program in Docket No. RP96–14–000, Columbia Gas Transmission Co. filed an application in Docket No. RP96–356–000, Columbia Gulf Transmission Corp. filed an application in Docket No. RP96–355–000, Mountaineer Gas Co. filed an application in Docket No. RP96–372-000, Central Hudson Gas & Electric Corp. filed an application in Docket No. RP96–371-000, Orange and Rockland Utilities, Inc. filed an application in Docket No. RP96–382-000, Transcontinental Gas Pipe Line Co. filed an application in Docket No. RP96–360-000, Brooklyn Union Gas Co. filed an application in Docket No. RP96–369–000, Washington Gas Light Co. filed an application in Docket No. RP96–368–000, National Fuel Gas Distribution Co. filed an application in Docket No. RP96–353–000, Kern River Gas Transmission Co. filed an application in Docket No. RP96–370–000, Boston Gas Co. filed an application in Docket No. RP96–373–000, and Arizona Public Service Co. filed an application in Docket No. RP96–379–000. The Commission accepted some of the applications and rejected others,[1] but subsequently terminated the pilot program.[2] Requests for rehearing of the Commission's decision to terminate the pilot program, as well as requests for rehearing of the Commission's rulings in the individual application proceedings are pending. The Commission's decision in the Final Rule to remove the price cap on short-term transactions in the secondary market makes the issue raised in these requests for rehearing moot, and the Commission therefore terminates the proceedings.

In Petition of United Distribution Companies, Docket No. RM94–10–000, the petitioner requested that the Commission facilitate use of the secondary market by authorizing the holders of firm capacity to market their capacity directly to all interested persons. In the Final Rule, the Commission has taken action to facilitate capacity release transactions, including removal of the price cap and improving competition and efficiency across the pipeline grid. The Commission has determined that the actions taken in the Final Rule are the appropriate modifications to the capacity release mechanism, and will not make any other changes to the capacity release process at this time. Therefore, the proceeding in Docket No. RM94–10–000 is terminated.

In Petition of Public Service Commission of the State of New York

[1] 77 FERC ¶ 61,183 (1996).

[2] Transwestern Pipeline Company, 78 FERC ¶ 61,200 (1997).

for Rulemaking Regarding Rate Design, Docket No. RM98–11–000, the petitioner asked the Commission to reconsider use of the SFV rate design methodology. In the Final Rule the Commission discusses the objections to use of the SFV rate design, but concludes that it will not order a generic change in rate design and will continue its current approach of considering requests to use different rate designs in individual cases. This disposes of the issue raised in Docket No. RM98–11–000, and the proceeding is therefore terminated.

In Regulation of Negotiated Transportation Services of Natural Gas Pipelines, Docket No. RM96–7–000, the Commission considered the appropriateness of negotiated terms and conditions of service. The Commission received comments on this issue in the Docket No. RM98–10–000 proceeding, and determines in the Final Rule that in light of significant unresolved questions concerning the need for and effects of negotiated terms and conditions, the Commission will not provide pipelines with authority for pre-approval of negotiated terms and conditions at this time. This resolves the issue raised in Docket No. RM96–7–000, and Docket No. RM96–7–000 is therefore terminated.

Document Availability: In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.fed.us*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street, N.E., Room 2A, Washington, DC 20426.

From FERC's Home Page on the Internet, this information is available in both the Commission Issuance Posting System (CIPS) and the Records and Information Management System (RIMS).

—CIPS provides access to the texts of formal documents issued by the Commission since November 14, 1994.

—CIPS can be accessed using the CIPS link or the Energy Information Online icon. The full text of this document is available on CIPS in ASCII and WordPerfect 8.0 format for viewing, printing, and/or downloading.

—RIMS contains images of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed from FERC's Home Page using the RIMS link or the Energy Information Online icon. Descriptions of documents back to November 16, 1981, are also available from RIMS-on-the-Web; requests for copies of these and other older documents should be submitted to the Public Reference Room.

User assistance is available for RIMS, CIPS, and the Website during normal business hours from our Help line at (202) 208–2222 (E-Mail to *WebMaster@ferc.fed.us*) or the Public Reference at (202) 208–1371 (E-Mail to *public.referenceroom@ferc.fed.us*).

During normal business hours, documents can also be viewed and/or printed in FERC's Public Reference Room, where RIMS, CIPS, and the FERC Website are available. User assistance is also available.

The Commission orders: The proceedings in the above-captioned dockets are terminated.

By the Commission.

David P. Boergers,

Secretary.

[FR Doc. 00–3596 Filed 2–24–00; 8:45 am]

BILLING CODE 6717–01–P

Federal Register

Friday,
February 25, 2000

Part III

Department of Health and Human Services

Revision of HHS National Environmental Policy Act Compliance Procedures and Procedures for Environmental Protection; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Revision of HHS National Environmental Policy Act Compliance Procedures and Procedures for Environmental Protection

AGENCY: Department of Health and Human Services, Office of the Secretary.

ACTION: Final Notice of Revision of HHS NEPA Procedures.

EFFECTIVE DATE: February 25, 2000.

SUMMARY: In accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA), as amended, and other related environmental laws, executive orders, and regulations, the Department of Health and Human Services published procedures in 1980 for conducting environmental reviews, preparing necessary documentation and making program decisions to ensure that environmental protection is an integral part of HHS operations. These procedures have been revised and updated. The revised procedures were published in the January 11, 1999, **Federal Register** for comment. Changes recommended by EPA and the Council on Environmental Quality have been included in the final document.

FOR FURTHER INFORMATION CONTACT: Dick Green, Office of Facilities Services, Department of Health and Human Services, Hubert H. Humphrey Building, Room 729D, 200 Independence Avenue, SW, Washington, DC, 20201. Telephone (202) 619–1994, FAX (202) 619–2692, E-main Address: DGREEN@OS.DHHS.GOV.

Dated: January 31, 2000.

John J. Callahan,

Assistant Secretary for Management and Budget.

Revised General Administration Manual, HHS Part 30, Environmental Protection

PART 30—ENVIRONMENTAL PROTECTION

Contents

Chapter and Title

Subject: Environmental Protection

30–00–00 Purpose

This Part summarizes and provides guidance on many current statutory, regulatory and Executive Order environmental authorities. It does not create or confer any rights on any person and it is not intended to be used as the sole source of information for any of the reference environmental compliance requirements. The Department recognizes that any of the authorities described herein may be revised after the issuance of this Part. The current specific environmental statute, regulation or Executive Order should be reviewed when questions or conflicts arise. To the extent that any statement in this Part should contradict or conflict with a current applicable statutory, regulatory or Executive Order requirement, that statutory, regulatory or Executive Order requirement shall supersede any inconsistent provision of this GAM Part. Additional questions should be referred to the OPDIV environmental officer, the Departmental environmental program manger, and/or the Office of the General Counsel.

Part 30 of the General Administration Manual establishes Departmental policy and procedures with respect to protection of the environment and the preservation of natural resources. Under Federal statutes, regulations, and Executive Orders, all Federal Departments and agencies are required to comply with all applicable Federal, State and local environmental statutes, laws and regulations and must take into account the environmental consequences of their activities. In many cases, the activities of non-Federal organizations which operate under the authority or with the support of Federal Departments or agencies are also included.

Consistent with the 1994 Presidential Memorandum on Government-to-Government Relations with Native American Tribal Governments, and Executive Order 13084 on Consultation and Coordination with Indian Tribal Governments, consultation and cooperation with Tribal Governemtns must be done where appropriate. Additionally, in certain programs. ''Eligible Tribes'' can be treated in the same manner as States. Some of these programs include certain Clean Air Act programs, Emergency Planning and Community Right-To-Know Act, Safe Drinking Water Act, Clean Water Act, Toxic Substances Control Act, and certain roles and responsibilities under the Comprehensive Environmental Response, Compensation and Liability Act.

This part supersedes HHS Part 30, Environmental Protection, 1980, with the exception that Part 30, Chapter 30–40, Cultural Asset Review (Historical Preservation) remains in effect until a separate revised Chapter dealing with this subject is published.

30–00–10 Chapter Organization and Content

The chapters of Part 30 are organized as follows:

- Chapter 30–00 provides a list and summary descriptions of certain environmental laws and Executive Orders, and a list of definitions.
- Chapters 30–10 and 30–20 provide overall Departmental policy with respect to environmental protection and a summary of internal administrative procedures with Departmental organizations must implement.
- Chapter 30–30 provides a general summary of the environmental review process for Departmental activities under the National Environmental Policy Act, and statutes and Executive Orders that require protection and preservation of natural and cultural assets.
- Chapters 30–40 through 30–90 provide detailed requirements for certain environmental statutes and Executive Orders covered by Part 30.

30–00–20 Environmental Statutes and Executive Order

Federal agencies are potentially subject to more than 150 Federal statutes and Executive Orders governing the environment. Many of these laws are noted in Table 1.

Environmental laws and implementing regulations that significantly impact the Department are summarized in the following subsections. Detailed guidance is contained in other chapters of Part 30 for certain environmental statutes and Executive Orders. Table 1, as follows, indicates the location of statutes or Executive Orders that are discussed in Part 30.

TABLE 1.—STATUTES AND EXECUTIVE ORDERS

Environmental statute or executive order	Citation	Part 30 location
Acid Precipitation Act of 1980	42 U.S.C. §§ 8901 to 8912.	
Act to Prevent Pollution From Ships	33 U.S.C. §§ 1901 to 1912.	
Agricultural Act of 1970	16 U.S.C. §§ 1501 to 1510.	
American Indian Religious Freedom Act	42 U.S.C. § 1996.	
Antarctic Protection Act of 1990	16 U.S.C. §§ 2461 to 2466.	
Antiquities Act of 1906	16 U.S.C. §§ 431 to 433	30–00–20K
Archeological and Historic Preservation Act of 1974	16 U.S.C. §§ 469 to 469c–1	30–00–20K
Archeological Resources Protection Act of 1979	16 U.S.C. §§ 470aa to 470mm.	
Asbestos Hazard Emergency Response Act of 1986	15 U.S.C. §§ 2641 to 2656.	
Atomic Energy Act of 1954	42 U.S.C. §§ 2011 to 2297g–4.	
Aviation Safety and Noise Abatement Act of 1979	49 U.S.C. app. §§ 2101 to 2125.	
Clean Air Act	42 U.S.C. §§ 7401 to 7671q	30–00–20A
Clean Vessel Act of 1992	33 U.S.C. § 1322 note.	
Clean Water Act [Federal Water, Pollution Control Act]	33 U.S.C. §§ 1251 to 1387	30–00–20B
Coastal Barrier Resources Act	16 U.S.C. §§ 3501 to 3510.	
Coastal Wetlands Planning, Protection, and Restoration Act	16 U.S.C. §§ 3951 to 3956.	
Coastal Zone Management Act of 1972	16 U.S.C. §§ 1451 to 1464	30–00–20C; Ch. 30–40
Community Environmental Response Facilitation Act	42 U.S.C. § 9620 note.	
Comprehensive Environmental Response, Compensation, and Liability Act of 1980 [''Superfund''].	42 U.S.C. §§ 9601 to 9675	30–00–20D
Emergency Planning and Community Right-to-Know Act of 1986	42 U.S.C. §§ 11001 to 11050	300–20E; Ch. 30–60
Emergency Wetlands Resources Act of 1986	16 U.S.C. §§ 3901 to 3932.	
Endangered Species Act of 1973	16 U.S.C. §§ 1531 to 1544	30–00–20F; Ch. 30–40
Energy Policy Act of 1992	42 U.S.C. §§ 13201 to 13556	30–00–20G
Energy Policy and Conservation Act	42 U.S.C. §§ 6201 to 6422	
Energy Reorganization Act of 1974	42 U.S.C. §§ 5801 to 5891	
Energy Supply and Environmental Coordination Act of 1974	15 U.S.C. §§ 791 to 798	
Environmental Programs Assistance Act of 1984	42 U.S.C. § 4368a	
Environmental Quality Improvement Act of 1970	42 U.S.C. §§ 4371 to 4375	
Farmland Protection Policy Act	7 U.S.C. §§ 4201 to 4209	
Federal Facility Compliance Act of 1992	42 U.S.C. §§ 6903, 6908, 6924, 6927, 6939c, 6939d, 6961, 6965.	
Federal Food, Drug, and Cosmetic Act	21 U.S.C. §§ 301 to 397	
Federal Insecticide, Fungicide, and Rodenticide Act	7 U.S.C. §§ 136 to 136y	30–00–20H
Federal Land Policy and Management Act of 1976	43 U.S.C. §§ 1701 to 1784	
Federal Oil and Gas Royalty Management Act of 1982	30 U.S.C. §§ 1701 to 1757	
Fish and Wildlife Act of 1956	16 U.S.C. §§ 742a to 742d, 742e to 742j–2	
Fish and Wildlife Coordination Act	16 U.S.C. §§ 661 to 666c	30–00–201; Ch. 30–40
Flood Disaster Protection Act of 1973	42 U.S.C. §§ 2414 to 4001 to 4129	
Forest and Rangeland Renewable Resources Planning Act of 1974	16 U.S.C. §§ 1600 to 1614	
Forest and Rangeland Renewable Resources Research Act of 1978.	16 U.S.C. §§ 1641 to 1649	
Forest Ecosystems and Atmospheric Pollution Research Act of 1988.	16 U.S.C. §§ 1642, 1642 note	
Geothermal Energy Research, Development and Demonstration Act of 1974.	30 U.S.C. §§ 1101 to 1164	
Global Change Research Act of 1990	15 U.S.C. §§ 2921 to 2961	
Global Climate Protection Act of 1987	15 U.S.C. § 2901 note	
Hazardous Substance Response Revenue Act of 1980	26 U.S.C. §§ 4611–4612, 4661–4662.	
Historic Sites Act of 1935 [Historic Sites, Buildings, and Antiquities Act].	16 U.S.C. §§ 461 to 267	30–00–20J
Indian Environmental General Assistance Program Act of 1992	42 U.S.C. § 4368b.	
Lead-Based Paint Exposure Reduction Act	15 U.S.C. §§ 2681 to 2692.	
Lead-Based Paint Poisoning Prevention Act	42 U.S.C. §§ 4821 to 4846.	
Lead Contamination Control Act of 1988	42 U.S.C. §§ 300j–21 to 300j–26.	
Low-Level Radioactive Waste Policy Act	42 U.S.C. §§ 2021b to 2021j.	
Marine Mammal Protection Act of 1972	16 U.S.C. §§ 1361 to 1421h.	
Marine Protection, Research, and Sanctuaries Act of 1972	16 U.S.C. §§ 1431 to 1445a; 33 U.S.C. §§ 1401 to 1445.	30–00–20K; Ch. 30–40
Medical Waste Tracking Act of 1988	42 U.S,.C. §§ 6992 to 6992K.	
Migratory Bird Treaty Act	16 U.S.C. §§ 703 to 712.	
Mining and Mineral Resources Research Institute Act of 1984	30 U.S.C. §§ 1221 to 1230a.	
Multiple-Use Sustained-Yield Act of 1960	16 U.S.C. §§ 528 to 531.	
National Climate Program Act	15 U.S.C. §§ 2901 to 2908.	
National Contaminated Sediment Assessment and Management Act	33 U.S.C. § 1271 note.	
National Environmental Policy Act of 1969	42 U.S.C. § § 4321 to 4370d	30–00–20L; Ch. 30–50
National Forest Management Act of 1976	16 U.S.C. § § 472a, 521b, 1600, 1611 to 1614.	
National Environmental Education Act	20 U.S.C. §§ 5501 to 5510.	
National Historic Preservation Act	16 U.S.C. §§ 470 to 470X-6	30–00–20J
Native American Graves Protection & Repatriation Act	25 U.S.C. §§ 3001 to 3013.	
Noise Control Act of 1972	42 U.S.C. §§ 4901 to 4918.	

TABLE 1.—STATUTES AND EXECUTIVE ORDERS—Continued

Environmental statute or executive order	Citation	Part 30 location
Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990.	16 U.S.C. § § 4701 to 4751.	
Nuclear Waste Policy Act of 1982	42 U.S.C. §§ 10101 to 10270.	
Occupational Safety and Health Act of 1970	29 U.S.C. §§ 651 to 678	30–00-20M
Ocean Dumping Ban Act of 1988	33 U.S.C. §§ 1412a, 1414a to 1414c.	
Oil Pollution Act of 1990	33 U.S.C. §§ 2701 to 2761.	
Organotin Antifouling Paint Control Act of 1988	33 U.S.C. §§ 2401 to 2410.	
Outer Continental Shelf Lands Act	43 U.S.C. §§ 1331 to 1356.	
Outer Continental Shelf Lands Act Amendments of 1978	43U.S.C. §§ 1344 to 1356, 1801 to 1866; 30 U.S.C. § 237.	
Pollution Prevention Act of 1990	42 U.S.C. §§ 13101 to 13109	30–00–20N; Ch. 30–70
Pollution Prosecution Act of 1990	42 U.S.C. § 4321 note.	
Power Plant and Industrial Fuel Use Act of 1978	42 U.S.C. §§ 8301 to 8483.	
Refuse Act of 1899	33 U.S.C. § 407.	
Renewable Resources Extension Act of 1978	16 U.S.C. §§ 1671 to 1676.	
Residential Lead-Based Paint Hazard Reduction Act of 1992	42 U.S.C. §§ 4851 to 4856.	
Resource Conservation and Recovery Act of 1976 [Solid Waste Disposal Act].	42 U.S.C. §§ 6901 to 6991i	30–00–20O
Rivers and Harbors Appropriation Acts (Selected sections)	33 U.S.C. §§ 401 to 426p and 441 to 454.	
Safe Drinking Water Act	42 U.S.C. §§ 300f and 300j–26	30–00–20P; Ch. 30–40
Shore Protection Act of 1988	33 U.S.C. §§ 2601 to 2609, 2621 to 2623.	
Soil and Water Resources Conservation Act of 1977	16 U.S.C. §§ 2001 to 2009.	
Surface Mining Control and Reclamation Act of 1977	30 U.S.C. §§ 1201 to 1328.	
Toxic Substances Control Act	15 U.S.C. §§ 2601 to 2692	30–00–20Q
United States Public Vessel Medical Waste Antidumping Act of 1988.	33 U.S.C. §§ 2501 to 2504.	
Uranium Mill Tailings Radiation Control Act of 1978	42 U.S.C. §§ 7901 to 7942.	
Water Resources Research Act of 1984	42 U.S.C. §§ 10301 to 10309.	
Wild and Scenic Rivers Act	16 U.S.C. §§ 1271 to 1287	30–00–20R; Ch. 30–40
Wild bird Conservation Act of 1992	15 U.S.C. §§ 4901 to 4916.	
Wild Free-Roaming Horses and Burros Act	16 U.S.C. §§ 1331 to 1340.	
Wilderness Act	16 U.S.C. §§ 1131 to 1136.	
Wood Residue Utilization Act of 1980	16 U.S.C. §§ 1681 to 1687.	
Executive Order 13007, Indian Sacred Sites	61 FR 26771 (1996).	
Executive Order 12902, Energy Efficiency and Water Conservation at Federal Facilities.	59 FR 11463 (1994).	
Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.	59 FR 7629 (1994)	30–00–20S
Executive Order 13101, Greeting the Government Through Waste Prevention, Recycling, and Federal Acquisition.	58 FR 54911 (1993)	30–00–20N; Ch. 30–90
Executive Order 12866, Regulatory Planning and Review	58 FR 51735 (1993).	
Executive Order 12856, Federal Compliance With Right-to-Know Laws and Pollution Prevention Requirements.	58 FR 41981 (1993)	30–00–20E; Ch. 30–80
Executive Order 12852, President's Council on Sustainable Development.	58 FR 35841 (1993), as amended by E.O. 12855, 58 FR 39107 (1993); 42 U.S.C. § 4321 note.	
Executive Order 12845, Requiring Agencies to Purchase Energy-Efficient Computer Equipment.	58 FR 21887 (1993).	
Executive Order 12844, Federal Use of Alternative Fueled Vehicles	58 FR 21885 (1993).	
Executive Order 12843, Procurement Requirements and Policies for Agencies for Ozone-Depleting Substances.	58 FR 21881 (1993).	
Executive Order 12778, Civil Justice Reform	56 FR 55195 (1991); 28 U.S.C. § 519 note ..	
Executive Order 12777, Implementation of Section 311 of the Federal Water Pollution Control Act of October 18, 1972, as Amended, and the Oil Pollution Act of 1990.	56 FR 54757 (1991); 33 U.S.C. § 1321 note	
Executive Order 12761, Establishment of President's Environmental and Conservation Challenge Awards.	56 FR 23645 (1991); 42 U.S.C. § 4321 note	
Executive Order 12759, Federal Energy Management	56 FR 16256 (1991); 42 U.S.C. § 6201 note	
Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights.	53 FR 8859 (1988); 5 U.S.C. § 601 note.	
Executive Order 12612, Federalism Considerations in Policy Formulation and Implementation.	54 41685 (1987); 5 U.S.C. § 601 note.	
Executive Order 12580, Superfund Implementation	52 FR 2923 (1987), as amended by E.O. 12777, 56 FR 54757 (1991); 42 U.S.C. §§ 9615 note.	
Executive Order 12114, Environmental Affects Abroad of Major Federal Actions.	44 FR 1957 (1979); 42 U.S.C. § 4321 note ..	30–00–20M; Ch. 30–50
Executive Order 12088, Federal Compliance With Pollution Control Standards.	43 FR 47707 (1978), as amended by E.O. 12580, 52 FR 2923 (1987); 42 U.S.C. § 4321 note.	30–00–20T

TABLE 1.—STATUTES AND EXECUTIVE ORDERS—Continued

Environmental statute or executive order	Citation	Part 30 location
Executive Order 11990, Protection of Wetlands	42 FR 26961 (1997), as amended by E.O. 12608, 52 FR 34617 (1987); 42 U.S.C. § 4321 note.	30–00–20L; Ch. 30–40
Executive Order 11988, Floodplain Management	42 FR 26951 (1977), as amended by E.O. 12148, 44 FR 43239 (1979); 42 U.S.C. § 4321 note.	30–00–20L; Ch. 30–40
Executive Order 11987, Exotic Organisms	42 FR 26949 (1977); 42 U.S.C. § 4321 note	30–00–20L
Executive Order 11912, Delegation of Authorities Relating to Energy Policy and Conservation.	41 FR 15825 (1976); as amended by E.O. 12003, 42 FR 37523 (1977), E.O. 12038, 43 FR 4957 (1978), E.O. 12148, 44 FR 43239 (1979), E.O. 12375, 47 FR 34105 (1982); 42 U.S.C. § 6201 note.	
Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act With Respect to Federal Contracts, Grants or Loans.	38 FR 25161 (1973); 42 U.S.C. § 7606 note.	
Executive Order 11644, Use of Off-Road Vehicles on Public Lands	37 FR 2877 (1972), as amended by E.O. 11989, 42 FR 26959 (1977), E.O. 12608, 52 FR 34617 (1987); 42 U.S.C. § 4321 note.	
Executive Order 11593, Protection and Enhancement of the Cultural Environment.	36 FR 8921 (1971); 16 U.S.C. § 470 note	30–00–20J
Executive Order 11514, Protection and Enhancement of Environmental Quality.	35 FR 4247 (1970), as amended by E.O. 11991, 42 FR 26967 (1977); 42 U.S.C. § 4321 note.	30–00–20L

A. *Clean Air Act (CAA).* The Clean Air Act of 1970, 42 U.S.C. 7401–7671q, as amended, establishes five major programs that cover (1) the attainment and maintenance of air quality standards; (2) reduction of hazardous air pollutants; (3) development of emission standards for motor vehicles and fuels; (4) protection of the stratospheric ozone; and (5) reduction of acid rain deposition.

1. *National Ambient Air Quality Standards Program (NAAQS).* All new and existing sources of air pollution are subject to ambient air quality regulation. The Clean Air Act directs the Environmental Protection Agency (EPA) Administrator to identify pollutants which ''may reasonably be anticipated to endanger public health and welfare'' and to issue air quality criteria for them. EPA is also required to publish primary and secondary national ambient air quality standards (NAAQS are designed to protect public health with an adequate margin of safety, and secondary NAAQS are designed to protect the public welfare. In 40 CFR part 50, EPA has promulgated NAAQS for six pollutants: sulfur dioxide (SO_2), particulate matter, nitrogen dioxide (NO_2), carbon monoxide, ozone, and lead.

Each State and eligible tribe is given primary responsibility for assuring that air quality within its borders is maintained at a level consistent with the NAAQS. The NAAQS are implemented through source-specific emission limitations established by States in State Implementation Plans (SIPs). SIPs must meet minimum criteria set forth in the Clean Air Act and are reviewed by EPA. A SIP may be enforced by the State or EPA. EPA must promulgate a Federal Implementation Plan (FIP) if a State fails to make a required submission or if a SIPs submission is disapproved and the State does not remedy the deficiency within a specified period.

(a) *Nonattainment Areas.* SIPs must adopt, at a minimum, reasonably available control technology (RACT) for existing sources and provide for annual incremental reductions in emissions of nonattainment pollutants. The CAA also contains additional requirements for SIPs in areas that do not attain the NAAQS, including specific requirements for certain pollutants.

(b) *New Source Performance Standards (NSPS).* New sources of pollution are subject to more stringent control technology and permitting requirements than existing sources. EPA is authorized to establish new source performance standards, which impose Federal technology-based requirements on emissions from new or modified major stationary sources of pollution. The Clean Air Act directs EPA to establish standards for new sources that reflect the degree of emission limitation achievable through the application of the best system of emission reduction which the EPA Administrator determines has been adequately demonstrated to be the best. These standards may be promulgated as design equipment, work practice, or operational standards where numerical emission limitations are not feasible. EPA has developed NSPS standards for a new of industry categories which are published at 40 CFR part 60. Each NSPS identifies the types of facilities to which the standards apply.

(c) *Prevention of Significant Deterioration Program (PSD).* A permit must be obtained under the PSD program before a ''major'' new source may be constructed or ''major modification'' made to an existing major source in an area that attains the NAAQS or is designated unclassifiable. The CAA requires each SIP to ''contain emission limitations and such other measures as may be necessary * * * to prevent significant deterioration of air quality'' in each region of the state in which the air quality exceeds national standards. EPA's PSD regulations are codified at 40 CFR part 51.

(d) *Nonattainment Program.* Regions that have failed to meet the NAAQS for one or more criteria pollutants are designated as ''nonattainment'' areas. New or modified major stationary sources proposed for nonattainment areas are required to comply with stringent permitting requirements, including a showing that the decrease in emissions from existing sources in the area is sufficient to offset the increase in emissions from the new or modified source and achievement of the ''lowest achievable emission rate'' (LAER).

2. *National Emission Standards for Hazardous Air Pollutants (NESHAP).* The 1970 Clean Air Act authorized EPA to establish health-based national emission standards for hazardous air pollutants (NESHAP) to protect the

public from these pollutants. EPA has established standards for seven hazardous substances. EPA's NESHAP regulations are published at 40 CFR part 651. The 1990 CAA amendments direct EPA to establish technology-based standards for 189 hazardous substances based on the use of ''maximum achievable control technology'' (MACT).

3. *Emission Standards for Mobile Sources and Fuel-Related Programs.* EPA is authorized to establish allowable levels of auto emissions and to control fuels and fuel additives. The 1990 CAA amendments establish lower emission standards for automobiles and other vehicles and provide for the use of ''clean'' alternatives fuels and ''clean fuel'' vehicles.

4. *Stratospheric Ozone Protection.* Title VI of the Act, added in 1990, addresses scientific concerns related to stratospheric ozone depletion and global warming by providing for the phase-out of ozone-depleting substances. Title VI calls for the phase-out of most ozone-depleting substances by the year 2000 and the imposition of other controls designed to minimize the emissions of such substances prior to their elimination.

5. *Acidic Deposition.* The 1990 CAA amendments added Title IV of the Act which authorizes EPA to establish an acid rain program to reduce the adverse effects of acidic deposition. The program imposes sulphur dioxide (SO_2) and nitrogen oxide (NO_X) controls on existing and new electric utility plants.

6. *Permits.* The 1990 CAA amendments added Title V which establishes an operating permit program for existing stationary sources. The permit program is modeled on the Clean Water Act permit program (NPDES program—see 30–00–20B) Each State must develop and implement a Clean Air Act operating permit program. EPA is required to issue permit program regulations that are to be followed by the States in establishing their programs; approve each State's permit program; and establish a Federal permit program if a State fails to implement an approved program. EPA is also authorized to review each permit issued by a State. EPA regulations addressing the minimum requirements for State operating permit programs are contained in 40 CFR part 70.

7. *Civil and Criminal Penalties.* EPA is authorized to seek compliance with the Act's provisions through administrative, civil, and criminal enforcement sanctions. The maximum penalties that may be imposed for violation of the CAA are contained in Table 2.

TABLE.—Maximum Penalties for Violation of Clean Air Act 42 U.S.C. § 7413(b)–(d).

Violation	Administrative penalty	Civil penalty	Criminal penalty
Violation of CAA requirement	$25,000 per day (maximum $200,000 may be waived by EPA and DOJ jointly). Alternative: recovery of projected economic value of noncompliance.	$25,000 per violation	Up to $250,000 per day and/or up to 5 yrs. imprisonment. Corporation subject to $500,000 per violation. Penalty doubled after first offense.
''Field citation'' for minor violations	$5,000 per day		
False statement or failure to file or maintain records or reports.			Up to $250,000 and/or up to 2 yrs. imprisonment; $500,000 for corporation. Penalty doubled after first offense.
Knowing failure to pay fee			Up to $250,000 and/or up to 1 yr. imprisonment; $1 million per day for corporations. Penalty doubled after first offense.
Knowing release of HAP or ''extremely hazardous substance'' placing another in ''imminent danger of death or serious bodily injury''.			Up to $25,000 per day and/or up to 15 yrs. imprisonment; $1 million per day for corporations. Penalty doubled after first offense.
Negligent release of air toxic placing another in ''imminent danger or death of serious bodily injury''.			Up to $100,000 and/or up to 1 yr. imprisonment; corporations subject to $200,000. Penalty doubled after first offense.

B. *Clean Water Act (CWA).* The Clean Water Act, 33 U.S.C. 1251–1387, was originally enacted as the Federal Water Pollution Control Act of 1972. The Act was substantially amended in 1977 and became the Clean Water Act. The objective of the CWA is to ''restore and maintain the chemical, physical and biological integrity of the Nation's waters.'' The Act establishes as a national policy ''that the discharge of toxic pollutants in toxic amounts be prohibited.'' Among the goals established by the Act are achievement of a level of water quality which ''provides for the protection and propagation of fish, shellfish and wildlife * * * [and] * * * for recreation in and on the water'' and elimination of the discharge of pollutants into navigable waters.

The CWA prohibits ''the discharge of any pollutant by any person * * *'' from a point source to waters of the United States, except in accordance with the Act's permit requirements, effluent limitations, and other provisions.

1. *Water Quality Standards.* A water quality standard defines the water quality goals of a water body by designating the uses to be made of the water, by setting criteria necessary to protect the uses, and by setting anti-degradation policy. States and eligible tribes are responsible for establishing water quality standards. The standards are designed to protect public health or welfare, enhance the quality of water, and serve the other purposes of the Clean Water Act. States and eligible tribes are required to review their water quality standards at least once every three years. EPA reviews and approves or disapproves State/Tribe-adopted water quality standards in accordance with regulations codified at 40 CFR part 131.

(a) *Water Uses.* Each State and eligible tribe must specify appropriate water uses to be achieved and protected. The

classification of the waters of the State must take into consideration the use and value of water for public water supplies, protection and propagation of fish, shellfish and wildlife, recreation in and on the water, agricultural, industrial, and other purposes including navigation. In no case shall a State adopt waste transport or waste assimilation as a designated use for any waters of the United States.

(b) *Water Quality Criteria.* States and eligible tribes must adopt those water quality criteria that protect the designated use. Criteria are elements of State water quality standards, expressed as constituent concentrations, levels, or narrative statements, representing a quality of water that supports a particular use.

(c) *Toxic Pollutants.* The Water Quality Act of 1987 amended the CWA to require States and eligible tribes to identify those waters that are adversely affected by toxic, conventional, and nonconventional pollutants; to identify where additional controls are needed; and to prepare individual control strategies. States must review water quality data and information on discharges to identify specific water bodies where toxic pollutants may be adversely affecting water quality or the attainment of the designated water use, or where the levels of toxic pollutants are at a level to warrant concern, and must adopt criteria for such toxic pollutants applicable to the water body sufficient to protect the designated use.

2. *Effluent Limitations.* The CWA directs EPA to issue effluent limitation guidelines, pretreatment standards, and new source performance standards for industrial dischargers. The EPA implementing regulations are based principally on the degree of effluent reduction attainable through the application of control technologies.

(a) *Direct Dischargers.* The effluent guidelines promulgated by EPA reflect the several levels of regulatory stringency specified in the Act, and they also focus on different types of pollutants.

(i) *Best Practicable Control Technology (BPT).* The CWA directs the achievement of effluent limitations requiring application of Best Practicable Control Technology (BPT). In general, effluent limitations that are based on Best Practicable Control Technology (BPT) represent the average of the best treatment technology performance for an industrial category.

(ii) *Conventional Pollutants—Best Conventional Pollutant Control Practical Technology (BCT).* For conventional pollutants listed in the Act, the CWA directs the achievement of effluent limitations based on the performance of best conventional pollutant control technology (BCT).

(iii) *Toxic Pollutants—Best Available Technology (BAT).* For the toxic pollutants listed in the CWA and for nonconventional pollutants, the Act directs the achievement of effluent limitations requiring application of Best Available Technology Economically Achievable (BAT). Effluent limitations based on BAT are to represent at a minimum the best control technology performance in the industrial category that is technologically and economically achievable.

(iv) *New Source Performance Standards (NSPS).* In addition to limitations for existing direct dischargers, EPA has established New Source Performance Standards (NSPS) for new direct dischargers. NSPS limitations must be as stringent, or more stringent, than BAT limitations for existing sources within the industry category or subcategory.

(v) *National Pollutant Discharge Elimination (NPDES) Permit.* The limitations and standards for direct dischargers are implemented in permits issued through the National Pollutant Discharge Elimination System (NPDES). Where there are no effluent guidelines or standards, technology-based limitations reflecting BPT/BCT/BAT are developed on a case-by-case basis using the permit writer's best professional judgement. Any NPDES permit issued must contain limitations sufficiently stringent to assure compliance with water quality standards.

(b) *Indirect Dischargers.*

(l) *Conventional Pollutants.* In general, EPA does not develop regulations to control conventional pollutants discharged by indirect dischargers because the publicly-owned treatment works (POTWs) receiving those wastes normally provide adequate treatment of these types of pollutants or they can be adequately controlled through local pretreatment limits.

(ii) *Pretreatment Standards.* Indirect dischargers are regulated by the general pretreatment regulations (40 CFR part 403), local discharge limits developed pursuant to Part 403, and categorical pretreatment standards for new and existing sources covering specific industrial categories. These categorical standards apply to the discharge of pollutants from non-domestic sources which interfere with or pass through POTWs, and are enforced by POTWs or by State or Federal authorities. The categorical pretreatment standards for existing sources covering specific industries are generally analogous to the BAT limitations imposed on direct dischargers. The standards for new sources are generally analogous to NSPS.

3. *National Pollutant Discharge Elimination System (NPDES) Permit.*

(a) *Requirement.* The CWA states that a permit is required for the discharge of pollutants from a point source into waters of the United States. Under the NPDES, permits are required whenever a pollutant is: (1) discharged (2) by a person (3) from a point source (4) into navigable waters of the United States.

(b) *Waters of the United States.* The Clean Water Act applies to ''navigable water'', which are in turn defined as ''waters of the United States, including the territorial seas.'' (33 U.S.C. 1362(7)). Navigable waters are broadly defined and are not limited to ''navigability in fact''. Waters of the United States include interstate waters and wetlands; all other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce; all impoundments of waters; tributaries; the territorial seas; and wetlands adjacent to other waters of the United States. (33 CFR 328.3(a)). Section 401(a)(1) of the CAA requires that prior to the issuance of any Federal license or permit for an activity which may result in a discharge to navigable waters, the applicant must obtain certification (from the State in which the discharge will occur) that the licensee will assure compliance with applicable portions of the CAA.

(c) *Storm Water Discharges.* Section 402(p) of the CWA clarifies that storm water discharges associated with industrial activity, including construction activity, to waters of the United States must be authorized by a NPDES permit. This section also regulates storm water discharges from municipal separate storm sewer systems serving a population greater than 100,000, and those storm water discharges designated for permitting a ''significant contributor of pollution.'' The CWA requires EPA to issue regulations establishing general permit standards for industrial storm water dischargers. Facility operators have to file notices of intent to be covered by the general permit and are required to develop pollution prevention plans to keep contaminants out of storm water. The general permits also establish special requirements for facilities that are subject to the Emergency Planning and Community Right-To-Know Act (EPCRA) section 313 reporting (see Chapters 30–60 and 30–80). The

regulations are codified at 40 CFR 122.26.

(d) *Recordkeeping and Monitoring.* The NPDES permits require holders to keep updated records and to install and maintain monitoring equipment, to take samples of effluents, and to report their findings to the EPA. The results must be in the form of a discharge monitoring report, which is a uniform method devised by the EPA for self-monitoring of permitted facilities.

4. *Spills of Oil and Hazardous Substances.* Under section 311, spills of listed hazardous substances in ''Reportable Quantities'' established by regulation must be reported to the National Response Center and promptly cleaned up. See 40 CFR parts 116–117 for designations of hazardous substances and reportable quantities. Spill Prevention Control and Countermeasure (SPCC) Plans must be adopted so as to prevent discharge of oil from onshore and offshore facilities into the navigable waters or adjoining shores. Requirements are set forth at 40 CFR part 112.

5. *Sole Source Aquifer Designation.* This designation is intended under 42 U.S.C. 300h–3 to protect underground drinking water sources. Proposed Federal financially-assisted projects that have the potential to contaminate the designated sole source aquifer are subject to EPA review.

6. *Civil and Criminal Penalties.* Administrative, civil, or criminal penalties may be imposed by EPA or a federal court for violation of the Act.

C. *Coastal Zone Management Act (CZMA).* The Coastal zone Management Act, 16 U.S.C. 1451 to 1464, requires that Federal activities in coastal areas be consistent with approved State Coastal Zone Management Programs, to the maximum extent possible. Procedures for consistency determinations under the CZMA requirements are codified at 15 CFR part 930 and are described in Chapter 30–40.

D. *Comprehensive Environmental, Response, Compensation and Liability Act (CERCLA).* The Comprehensive Environmental, Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9601 to 9675, is popularly known as the ''Superfund'' Act. The statute provides for a fund to address the problems of ''cleaning up'' abandoned or leaking hazardous waste sites. The 1980 statute was substantially revised in 1986 by the Superfund Amendments and Reauthorization Act of 1986 (SARA). It is implemented for federal agencies by Executive order 12580.

CERCLA authorizes the Environmental Protection Agency (EPA) to:

•–Utilize the Hazardous Substance Superfund (''Superfund'') to study and clean up sites that are listed on the National Priorities List (NPL);

• To recover costs expended from parties responsible; and,

• To order such parties to perform work.

1. *Hazardous Substance Superfund.* The Hazardous Substance Superfund is established through the imposition of taxes on certain industries and from general tax revenues. The Superfund is used to pay EPA's clean-up and enforcement costs, natural resource damage, and claims of private parties. Federal agencies are not eligible for funds from the Superfund.

2. *National Contingency Plan (NCP).* The National Oil and Hazardous Substances Pollution Contingency Plan (NCP) provides the organizational structure and procedures for preparing for and responding to discharges of oil and releases of hazardous substances, pollutants, and contaminants. The NCP is required by CERCLA section 105 and section 311(c)(2) of the CWA. In Executive Order 12580, 52 FR 2923 (1987), the President delegated to EPA the responsibility for the amendment of the NCP.

National Priorities List (NPL). CERCLA requires that the NCP include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the Untied States. The National Priorities List (NPL) constitutes this list. The identification of a site for the NPL is intended primarily to guide the Environmental Protection Agency (EPA) in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. Pursuant to section 105(a)(8)(B) of CERCLA, as amended by SARA, EPA has promulgate a list of national priorities among the known or threatened releases of hazardous substances, pollutants, or contaminants throughout the Untied States. That list, which is Appendix B of 40 CFR part 300, is the National Priorities List (''NPL'').

The NPL includes two sections, one of sites that are evaluated and cleaned up by EPA (the ''General Superfund Section''), and one of sites being addressed by other Federal agencies (the ''Federal Facilities Section'').

Federal Facilities. Under Executive Order 12580 (52 FR 2923, January 29, 1987) and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody, or control, although EPA is responsible for preparing a Hazard Ranking System (HRS) score and determining whether the facility is placed on the NPL. The HRS is a screening tool used by the EPA to evaluate risks associated with abandoned or uncontrolled or hazardous waste sites. EPA is not the lead agency at these sites, and its role at such sites is accordingly less extensive than at other sites. The Federal Facilities Section includes those facilities at which EPA is not the lead agency.

3. *Response and Remediation.* Sections 106 and 107 provide the primary authority for EPA, States, and private parties to recover the costs of cleanup or to abate an endangerment to public heath, welfare, or the environment. Section 106 authorizes EPA to seek judicial relief requiring a responsible party to abate an imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of a hazardous substance from a facility. Section 107 imposes liability for cleanup and other response costs [costs incurred in responding to a release or a threatened release of a hazardous substance] upon (1) a ''responsible party'' for the (2) release or ''threatened release'' of (3) a hazardous substance from (4) a facility or vessel.

(a) *Potentially Responsible Party.* Section 107(a) of CERCLA, 42 U.S.C 9607(a), sets forth four categories of parties that are potentially subject to liability:

(1) *Current owner or operator:* owner or operator of a facility from which there is a release of a hazardous substance, or is the operator or owner when cleanup is performed or litigation initiated;

(2) *Former owner or operator:* A person who operated or owned a facility when the hazardous substance was disposed of at the facility;

(3) *Arranger:* Any person who ''arranged for disposal or treatment'' at a facility; and

(4) *Transporter:* A person who accepted hazardous substances for transport to a disposal or treatment facility or site that was selected by the transporter ''from which there is a release or threatened release.'' (107(a)(4).

Note: A current owner or operator may be liable even if it did not handle, dispose of, or tread hazardous wastes at the facility, and without regard to whether hazardous substances were disposed of at the facility during the period of ownership or operation.

(b) *Release or ''Substantial Threat of Release.''* The term ''release'' is defined broadly in the Act. A ''release'' any spilling, leaking, pumping, pouring emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment * * *'' The release of any quantity of a hazardous substance qualifies as a release under CERCLA. Certain types of releases are excluded from the definition: Engine exhaust, nuclear material and fertilizer application. 42 U.S.C. 9601(22).

(c) *Hazardous Substance.* ''Hazardous substances'' are defined in CERCLA section 101(14). A list of these substances can be found at 40 CFR part 302. The definition of ''hazardous substances'' incorporates lists of hazardous pollutants that have been developed under other Federal environmental statutes and wastes that exhibit characteristics of a hazardous waste under the Resource Conservation and Recovery Act (''RCRA''). Table 3, following, outlines hazardous pollutants considered to be hazardous substances under CERCLA.

TABLE 3.—HAZARDOUS POLLUTANTS CONSIDERED TO BE HAZARDOUS SUBSTANCES UNDER CERCLA

Type of pollutant	Statutory definition
Hazardous Air Pollutants.	CAA, Section 112.
Hazardous Substances.	CWA, Section 311.
Toxic Pollutants	CWA, Section 307.
Substances which ''may present substantial danger to public health or welfare or the environment''.	CERCLA, Section 102.
Listed Hazardous Wastes; Characteristic hazardous wastes.	RCRA, Section 3001.
Imminently Hazardous Chemical Substances or Mixtures.	TSCA, Section 7.

(1) *Petroleum Exclusion.* Petroleum, ''including crude oil or any fraction thereof,'' is excluded from the definition of ''hazardous substance.''

(2) *Pollutants or Contaminants.''* EPA may clean up a site polluted by either a ''hazardous substance'' or a ''pollutant or contaminant,'' but CERCLA does not authorize EPA to recover its cleanup costs from private parties or to issue an order directing the parties to perform a cleanup when the substance involved is only a ''pollutant or contaminant.''

(d) *Response Costs.* CERCLA permits the recovery of ''response costs'', which includes the costs of removal, remedial action, and enforcement activities related thereto. In addition to liability for costs and damages related to response actions stemming from a release of a hazardous substance, liability may also be imposed for costs associated with the loss of a contaminated area's natural resources.

(e) *Application of Liability.* The statute does not set forth liability standards. The courts have consistently applie the following standards:

(1) *Strict liability;*

(2) *Joint and Several Liability;* and

(3) *Retroactive Liability.*

(f) *Defense to Liability.* The statute permits liability to be defended when the release was caused by:

(1) An act of God;

(2) An act of war; or

(3) The act or omission of a third party other than an employee or agent or one in a contractual relationship with the party being sought to be held liable.

4. *Penalties.* A party that refuses or fails to comply with a Section 106 order from EPA may be assessed up to $25,000 per day of the violation of the order. Additional penalties may also be imposed.

5. *Executive Order 12580.* Executive Order 12580, Superfund Implementation, 52 FR 2923 (1987), as amended by Executive Order 12777, 56 FR 54757 (1991), 42 U.S.C. 9615 note, implements CERCLA by delegating functions under the Act vested in the President to Federal agencies.

E. *Emergency Planning and Community Right-To-Know Act (EPCRA)*

1. *EPCRA.* The Emergency Planning and Community Right-To-Know Act of 1986 (EPCRA), 42 U.S.C. 11001–11050, establishes a mechanism for providing the public with important information on the hazardous and toxic chemicals in their communities, and it creates emergency planning and notification requirements to protect the public in the event of a release of extremely hazardous substances. The Act requires owners and operators of certain facilities to annually submit toxic chemical release inventories to EPA, affected States, and Indian tribes. EPCRA requirements are set forth in chapter 30–60. Because it was enacted as Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA), the statute is sometimes referred to as ''SARA, Title III''

2. *Executive Order 12856.* Executive Order 12856, Federal Compliance With Right-to-Know Laws and Pollution Prevention Requirements, 58 FR 41981 (1993), applies the requirements of EPCRA to Federal agencies. The requirements of the Order are described in chapter 30–80.

F. *Endangered Species Act (ESA).* The Endangered Species Act, 16 U.S.C. 1531–1543, directs Federal agencies to conserve endangered and threatened species and their critical habitats. Federal agencies must insure, in consultation with the Secretary of the Interior or the Secretary of Commerce, that any action authorized, funded, or carried our by the agency is not likely to jeopardize the continued existence of any endangered species or threatened species, or result in the destruction or adverse modification of critical habitat unless the agency has been granted an exemption under ESA. Environmental review requirements under ESA are covered in chapter 30–40.

G. *Energy Conservation.*

1. *Energy Policy Act.* The Energy Policy Act of 1992, 42 U.S.C. 13201 to 13556, requires the Secretary of Energy to work with other Federal agencies to significantly reduce the use of energy and reduce the related environmental impacts by promoting use of energy efficient and renewable energy technologies.

2. *Energy Policy and Conservation Act.* The Energy Policy and Conservation Act, 42 U.S.C. 6201–6422, authorizes the Secretary of Energy to promote energy efficiency and encourage energy conservation.

3. *Executive Order 12902.* Executive Order 12902, Energy Efficiency and Water Conservation at Federal Facilities, 59 FR 11463 (1994), requires each federal agency to develop and implement a program with the intent of reducing energy consumption by 30 percent by the year 2005. Each agency must develop and implement a program for its industrial facilities with the intent of increasing energy efficiency by at least 20 percent by the year 2005 and shall implement all cost-effective water conservation projects.

The Order directs each agency responsible for managing Federal facilities to develop and begin implementing a 10-year plan to conduct or obtain comprehensive facility audits, based on prioritization surveys on each of the facilities the agency manages. All agencies are to develop and implement programs to reduce the use of petroleum in their buildings and facilities by switching to a less-polluting and

nonpetroleum-based energy source, such as natural gas or solar and other renewable energy sources. The head of each agency shall report annually to the Secretary of Energy and OMB in achieving the goals of this order. Each agency head shall designate a senior official, at the Assistant Secretary level or above, to be responsible for achieving the requirements of Executive Order 12902. The agency senior official must coordinate implementation of the Order with the Federal Environmental Executive and Agency Environmental Executives established under Executive Order No. 12873 (see Chapter 30–90).

H. *Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).* The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 to 136y, requires the registration of a pesticide before it may be sold and authorizes the EPA Administrator to limit the distribution, sale or use of unregistered pesticides. EPA is prohibited from registering a pesticide that will cause ''unreasonable adverse effects on the environment.'' Regulations implementing FIFRA govern the use, storage, and disposal of registered pesticides. Additionally, these regulations govern the requirements for training and certification of applicators, container labeling, and worker protection.

I. *Fish and Wildlife Coordination Act.* The Fish and Wildlife Coordination Act, 16 U.S.C. 661–666c, requires Federal agencies to protect fish and wildlife resources which may be affected by an agency plan to control or modify a national stream or body of water for any purpose. The agency also must provide for the development and improvement of wildlife resources that will be affected by its action. Before taking action, the agency must consult with the United States Fish and Wildlife Service, Department of the Interior, and with the head of the State agency exercising administration over the wildlife resources that will be affected to determine means and measures that should be adopted to prevent the loss of or damage to such wildlife resources, as well as to provide concurrently for the development and improvement of such resources. Consultation requirements under the Fish and Wildlife Coordination Act are described in chapter 30–40.

J. *Historic Preservation.*

1. *Antiquities Act of 1906.* he Antiquities Act of 1906, 16 U.S.C. 431–433, authorizes the President to declare historic landmarks, historic and pre-historic structures, and other objects of historic and scientific interest that are located on Federal lands to be national monuments.

2. *Archaeological and Historic Preservation Act of 1974.* The Archaeological and Historic Preservation Act of 1974, 16 U.S.C. 469 to 469c–1, directs Federal agencies to preserve significant scientific, prehistorical, historical and archaeological data.

3. *Historic Sites Act of 1935.* The Historic Sites Act of 1935, 16 U.S.C. 461 to 467, states that it is a national policy to preserve for public use historic sites, buildings, and objects of national significance for the inspiration and benefit of the public. The Act is also popularly called ''The Historic Sites, Buildings, and Antiquities Act.''

4. *National Historic Preservation Act.* The National Historic Preservation Act, 16 U.S.C. 470 to 470x–6, directs heads of Federal agencies to assume responsibility for the preservation of historic properties which are owned or controlled by such agencies.

5. *Executive Order 11593.* Executive Order 11593, Protection and Enhancement of the Cultural Environment, 36 FR 8921 (1971), 16 U.S.C. 470 note, requires Federal agencies to initiate measures and procedures to provide for the maintenance, through preservation, rehabilitation, or restoration of Federally-owned sites that are listed on the National Register of Historic Places.

K. *Marine Protection, Research and Sanctuaries Act.* The Marine Protection, Research and Sanctuaries Act of 1972, 16 U.S.C. 1431 to 1445a, 33 U.S.C. 1401 to 1445, provides for establishment of marine sanctuaries and directs Federal agencies to ensure that their actions are consistent with the intended use of such areas.

L. *National Environmental Policy Act (NEPA).*

1. *NEPA.* The National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321–4370d, establishes a comprehensive policy for protection and enhancement of the environment by the Federal government; creates the Council on Environmental Quality; and directs Federal agencies to carry out the policies and procedures of the act. NEPA is covered in chapter 30–50.

2. *Executive Order 12114.* Executive Order 12114, Environmental Effects Abroad of Major Federal Actions, 44 FR 1957 (1979), enables responsible officials of Federal agencies having ultimate responsibility for authorizing and approving certain Federal activities significantly affecting the environment of the global commons, or a foreign nation, or certain major Federal actions outside the United States which significantly affect natural or ecological resources of global importance, to be informed of pertinent environmental considerations and to take such considerations into account in making decisions regarding such actions. Executive Order 12114 is implemented for HHS in chapter 30–50.

3. *Executive Order 11990.* Executive Order 11990, Protection of Wetlands, 42 FR 26961 (1977), as amended by Executive Order 12608, 52 FR 34617 (1987) 42 U.S.C. 4321 note, directs Federal agencies to avoid, to the extent possible, the long and short term adverse impacts associated with the destruction or modification of wetlands and direct or indirect support of new construction in wetlands wherever there is a practical alternative. Executive Order 11990 is covered in chapter 30–40.

4. *Executive Order 11988.* Executive Order 11988, Floodplain Management, 42 FR 26951 (1977), as amended by Executive Order 12148, 44 FR 43239 (1979), 42 U.S.C. 4321 note, directs Federal agencies to take action to avoid, to the extent possible, the long and short term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development whenever there is a practical alternative. Executive Order 11988 is implemented for HHS in chapter 30–40.

5. *Executive Order 11514.* Executive Order 11514, Protection and Enhancement of Environmental Quality, 35 FR 4247 (1970), as amended by Executive Order 11991, 42 FR 26967 (1977), 42 U.S.C. 4321 note, requires Federal agencies to initiate measures needed to direct their policies, plans, and programs to meet national environmental goals. Federal agencies must develop procedures to ensure the fullest practicable provision of timely public information and understanding of Federal plans and programs with environmental impact in order to obtain the views of interested parties. In carrying out their responsibilities under NEPA and Executive Order 11514, Federal agencies are to comply with regulations issued by the Council on Environmental Quality, except where compliance would be inconsistent with statutory requirements.

M. *Occupational Safety and Health Act (OSHA).* The Occupational Safety and Health Act of 1970, 29 U.S.C 651 to 658, regulates the use, storage, and handling of hazardous materials in the workplace and provides for the Department of Labor to establish standards governing workplace safety and health requirements.

N. *Pollution Prevention and Recycling*

1. *Pollution Prevention Act (PPA).* The Pollution Prevention Act of 1990, 42 U.S.C. 13101–13109, requires the reporting of efforts to reduce toxic chemical releases through source reduction and recycling. The PPA establishes national policy that pollution is to be prevented or reduced at the source, and the Act requires the Environmental Protection Agency (EPA) to submit biennial reports to Congress that analyze the source reduction and recycling data submitted to it and provide other pollution prevention information that has been gathered from private businesses and Federal agencies. The Act also requires the Administrator of EPA to develop a strategy to promote source reduction; to make matching grants to States to promote the use of source reduction techniques by businesses; and to establish a Source Reduction Clearinghouse. The requirements of the PPA are described in more detail in chapter 30–70.

2. *Executive Order 13101.* Executive Order 13101, Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition, Sep 1998, requires Federal agencies to strive to increase the procurement of products that are environmentally preferable or that are made with recovered materials and to set annual goals to maximize the number of recycled products purchased, relative to non-recycled alternatives. Each agency is to establish goals for solid waste prevention and for recycling to be achieved by the years 2000, 2005 and 2010 and to annually report progress in attaining the goals. Executive Order 13101 is implemented for HHS in chapter 30–90.

O. *Resource Conservation and Recovery Act (RCRA).* The Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 to 6991i, governs the generation, storage, and disposal of hazardous waste, and amends the Solid Waste Disposal Act.

P. *Safe Drinking Waster Act (SDWA).* The Safe Drinking Water Act, 42 U.S.C. 300f to 33j–26, is intended to protect drinking water sources. The statute authorizes EPA to determine if an action which will have an environmental effect on a sole or principal drinking water source would also constitute a significant hazard to a human population and, if so, to prohibit such an action. The SDWA protects the quality of drinking water by establishing regulations (1) governing the quality of water delivered by public water systems and (2) preventing the endangerment of drinking water sources from underground injection. The SDWA also allows EPA to take any action necessary to protect the health of persons where contamination of a drinking water source poses an imminent and substantial endangerment to health.

Q. *Toxic Substances Control Act (TSCA).* The Toxic Substances Control Act of 1976 (TSCA), 15 U.S.C. 2601 to 2692, provides controls over the manufacture process, use, distribution and disposal of certain toxic materials. *e.g.,* polychlorinated biphenyls, lead-based paint, asbestos containing materials and radon.

R. *Wild and Scenic Rivers Act.* The Wild and Scenic Rivers Act, 16 U.S.C. 1271 to 1287, directs Federal agencies to consider and preserve the values of wild and scenic areas in the use and development of water and land resources.

S. *Executive Orders*

1. *Executive Order 12898.* Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629 (1994), requires each Federal agency to make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. Federal agencies which conduct activities that substantially affect human health or the environment should have implemented an agency-wide environmental justice strategy which identifies and addresses disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.

The environmental justice strategy includes a listing of programs, policies, planning and public participation processes, enforcement, and/or rulemakings, related to human health or the environment and should, at a minimum: (a) Promote enforcement of all health and environmental statutes in areas with minority populations and low-income populations; (b) ensure greater public participation; (c) improve research and data collection relating to the health of and environment of minority populations and low-income populations; and (d) identify differential patterns of consumption of natural resources among minority populations and low-income populations. In addition, the environmental justice strategy includes, where appropriate, a timetable for undertaking identified revisions and consideration of economic and social implications of the revisions. To assist in identifying the need for ensuring protection of populations with differential consumption patterns, agencies whenever practicable and appropriate, must collect, maintain, and analyze information on the consumption patterns of populations who rely principally on fish and/or wildlife for subsistence.

2. *Executive Order 12088.* Executive Order 12088, Federal Compliance with Pollution Control Standards, 43 FR 47707 (1978), as amended by Executive Order 12580, 52 FR 2923 (1987), 42 U.S.C. 4321 note, makes the head of each Federal agency responsible for ensuring that all necessary actions are taken for the prevention, control, and abatement of environmental pollution with respect to Federal facilities and activities under the control of the agency.

3. *Executive Order 11987.* Executive Order 11987, Exotic Organisms, 42 FR 25949, 42 U.S.C. 4321 note, directs Federal agencies, to the extent permitted by law, to restrict the introduction of exotic species into the natural ecosystems on lands and waters which they own, lease, or administer.

30–00–30 Definitions

The following terms are defined solely for the purpose of implementing the supplemental procedures provided by this chapter and are not necessarily applicable to any statutory or regulatory requirements. To the extent that a definition of one of these terms should conflict with a definition in an applicable statute, regulation or Executive Order, that statute, regulation or Executive Order definition shall supersede the GAM definition.

A. *Action*—a signed decision by a responsible Department official resulting in:

1. Approval, award, modification, cancellation, termination, use or commitment of Federal funds or property by means of a grant, contract, purchase, loan, guarantee, deed, lease, license or by any other means;

2. Approval, amendment or revocation of any official policy, procedures or regulations including the establishment or elimination of a Department program; or

3. Submission to Congress of proposed legislation which, if enacted, the Department would administer.

B. *Asset*—an entity, group of entities or specific environment as defined in the individual related acts and which the individual related acts seek to protect or preserve. Assets include cultural assets (e.g., historic properties) and natural assets (e.g., wild and scenic rivers, and endangered species).

C. *Environmental Acts*—all authorities listed in Section 30–00–20 or authorities that might be designated under other statutes or Executive Orders.

D. *Environmental Assessment*—a concise public document, as defined in the regulations implementing NEPA, that serves to provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact.

Environmental Effects—effects, as defined under NEPA, include direct effects, which are caused by the action and occur at the same time and place, indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable, and cumulative effects, which are caused by the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions.

F. *Environmental Impact Statement*—a detailed written statement, as required under NEPA, on: (1) The environmental impact of the proposed action, (ii) any adverse environmental effects which cannot be avoided if the action is implemented, (iii) alternatives to the proposed action, (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity and (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

G. *Environmental Review*—the process, including necessary documentation, which a Departmental organization uses to determine whether a proposed action will cause an environmental affect.

H. *Finding of No Significant Impact*—a document by a federal agency, as required under NEPA, briefly presenting the reasons why an action will not have a significant effect on the human environment and for which an environmental impact statement therefore will not be prepared.

I. *Major Federal Action*—includes actions, as defined by NEPA, with effects that may be major and which are potentially subject to federal court and responsibility.

J. *HHS Operating Division (OPDIV)* The following is a current listing (which may change at some future date) of OPDIVs: Administration of Aging (AoA), Administration for Children and Families (ACF) Agency for Health Care Research and Quality (AHCRQ), Centers for Disease Control and Prevention (CDC), Agency for Toxic Substances and Disease Registry (ATSDR), Food and Drug Administration (FDA), Health Care Financing Administration (HCFA), Health Resources and Services Administration (HRSA), Indian Health Service (IHS), National Institutes of Health (NIH), Office of the Secretary (OS), Program Support Center (PSC), and Substance Abuse and Mental Health Services Administration (SAMHSA).

K. *HHS Staff Division (STAFFDIV)* The following is a current listing (which may change at some future date) of STAFFDIVs: Office of the Assistant Secretary for Legislation (ASL), Office of the Assistant Secretary for Management and Budget (ASMB), Office of the Assistant Secretary for Planning and Evaluation (ASPE), Office of the Assistant Secretary for Public Affairs (ASPA), Departmental Appeals Board (DAB), Office for Civil Rights (OCR), Office of General Counsel (OGC), Office of Inspector General (OIG), and Office of Public Health and Sciences (OPHS).

L. *Program Review*—a review by OPDIVs/STAFFDIVs of all their actions to determine:

1. Those categories of actions which normally do not individually or cumulatively cause significant environmental effects and therefore may be categorically excluded from further environmental review; and

2. Those categories of actions which require an environmental review because they may cause significant environmental effects under NEPA; and

3. Those categories of actions which require an environmental review because they normally do cause significant environmental effects under NEPA.

Subject: Department of Health and Human Services Environmental Policy

30–10–00 Policy Statement

The Department of Health and Human Services is committed to complying with all applicable Federal, state and local environmental laws, statutes and regulations, protecting the environment, and conserving our environmental resources by being proactive and cost effective in our environmental stewardship. It is HHS policy that pollution be prevented or reduced at the source. All HHS organizations shall give first priority to avoiding or reducing the generation of hazardous substances, pollutants, and contaminants at the source. Pollution that cannot be prevented or recycled must be treated in an environmentally safe manner to reduce volume, toxicity, and/or mobility.

Only as a last resort should disposal or other release into the environment be employed, and such disposal or release must be conducted in accordance with all applicable authorities and in an environmentally safe manner. Managers and employees are expected to execute their responsibilities in a way that is proactive and cost effective in the protection and conservation of our environmental resources and in a manner that complies with all applicable Federal, state, and local environmental laws, statutes and regulations.

30–10–10 Vision Statement

All HHS managers and employees are guardians of the environment when carrying out their responsibilities. Proactive efforts at all organizational levels must be focused on managing environmental risks to ensure that the environment is always protected and our environmental resources are conserved.

OPDIVs/STAFFDIVs must give weight to preservation of the environment and protection of historic or cultural assets in reaching substantive program decisions. All HHS organizations shall assess environmental costs and benefits as well as program goals and objectives in determining a particular course of action. In conducting this assessment, OPDIVs/STAFFDIVs should devote reasonable time, effort, and resources to consideration of environmental risks associated with a program-related course of action.

30–10–20 Goals and Objectives

The goals of our environmental efforts are to prevent harm to the environment, and enhance the quality of human health by conserving our environmental resources.

This goal are satisfied by meeting the following objectives:

1. Compliance—To comply with all applicable Federal, state, and local environmental laws, statutes and regulations:

2. Conservation—To protect and conserve our environmental resources through pollution prevention, waste reduction and recycling;

3. Pollution Prevention—To protect and conserve our environmental resources through source reduction in facility management and acquisition, where practicable, as the primary means of achieving and maintaining compliance with applicable Federal, state and local environmental laws, statutes and regulations; and

4. Restoration—To restore, when possible, facilities, land, and waters damaged through past practices.

30–10–30 Strategy

HHS has adopted and will adhere to a Code of Environmental Management Principles (CEMP) to help achieve the goals of the HHS environmental protection program. As part of the effort to implement these principles throughout HHS, all OPDIVS/STAFFDIVS will integrate the following principles into their environmental protection programs:

1. *Management Commitment*—Written top management commitment to improved environmental performance by establishing policies which emphasize pollution prevention and the need to ensure compliance with environmental requirements.

2. *Compliance Assurance and Pollution Prevention*—Proactive programs that aggressively identify and address potential compliance problem areas and utilize pollution prevention approaches to correct deficiencies and improve environmental performance.

3. *Enabling Systems*—Necessary systems to enable personnel to perform their functions consistent with regulatory requirements, HHS environmental policies, and the HHS overall mission.

4. *Performance and Accountability*—Measures to address employee environmental performance and ensure full accountability of environmental functions.

5. *Measurement and Improvement*—A program to assess progress toward meeting organization environmental goals, and which uses the results of that assessment to improve environmental performance.

Subject: Administrative Requirements

30–20–00 Background

This chapter establishes an administrative framework in the Department of environmentally-related activities. Specifically, this chapter (1) describes the assignment of relative responsibilities in the Department regarding environmental activities; (2) establishes procedures for program reviews; and (3) establishes other on-going administrative requirements.

30–20–10 Responsibilities

A. *Office of the Secretary.* The Secretary shall designate an official as the Department Environmental Officer, who will be responsible for:

1. Preparing Departmental guidelines and other policy documents for issuance by the Secretary or other appropriate Department official pertaining to environmental protection and preservation of natural or cultural assets;

2. Approving lead agency agreements having Department-wide applicability;

3. Providing training to HHS program officials with respect to carrying out the requirements of environmental statutes and Executive Orders;

4. Maintaining liaison with the Council on Environmental Quality (CEQ), Environmental Protection Agency (EPA), and other Federal agencies charged with direct responsibility for administering environmental statutes and Executive Orders;

5. Coordinating the review of environmental statements originating from outside of HHS. This responsibility is delegated to the Centers for Disease Control and Prevention, National Center for Environmental Health (FR, Vol. 43 no. 164, Aug. 23, 1978); and

6. Reviewing and making recommendations to the Assistant Secretary for Management and Budget with respect to determinations by OPDIVs/STAFFDIVs that certain activities are categorically excluded from environmental review.

B. *OPDIVs/STAFFDIVs.* Heads of OPDIVs/STAFFDIVs are responsible for ensuring that organizational units under their authority, including regional, comply with all provisions of all applicable Federal, State, and local environmental laws, statutes, regulations and Executive Orders and with the procedures of part 30. An OPDIV/STAFFDIV head may designate an environmental officer, who may act in either a full-time capacity or in addition to other duties, to assist in fulfilling these responsibilities.

30–20–20 Approval Authority and Delegations of Authority

A. *Delegation of Authority.* The OPDIV/STAFFDIV head may redelegate all of their environmental responsibilities to subordinate program managers except for the authority of an OPDIV/STAFFDIV head to approve the designation of actions as categorically excluded. OPDIV/STAFFDIV heads shall obtain concurrence from the Assistant Secretary for Management and Budget with respect to activities designated to be categorically excluded from environmental reviews.

B. *Excluded Material.* The exclus8ion of material from environmental impact statements on the basis of national security and trade secrets requires approval by the HHS Office of the General Counsel. (See Section 30Θ–30–40.)

C. *Natural Assets.* Proposed actions which will have an effect on certain natural assets may require concurrence or approval from other Federal agencies and/or entities prior to taking the action. (See chapter 30–40.)

D. *Floodplains/Wetlands.* OPDIV/STAFFDIV heads shall sign determinations pursuant to Executive Order 11988, Floodplain Management, and Executive Order 11990, Protection of Wetlands, except:

1. The Secretary shall approve proposed actions requiring environmental impact statements on projects affecting floodplains; and

2. The Secretary shall approve proposed actions requiring environmental assessments or environmental impact statements for new construction in wetlands.

30–20–30 Program Reviews

a. *Actions Requiring Environmental Review.* All HHS activities will be evaluated to determine whether such activities are actions that require environmental review. In a program review, an OPDIV/STAFFDIV evaluates actions it will be taking in order to determine the potential of these actions to cause an environmental effect under an applicable environmental statute or Executive Order. OPDIVs/STAFFDIVs should have already completed an initial review.

OPDIVs/STAFFDIVs may undertake additional program reviews subsequently whenever they deem it appropriate.

As a result of program review, an OPDIV/STAFFDIV shall divide each of its actions in one of three groups:

Group 1 (categorically excluded)—Those actions which do not individually or cumulatively have a significant effect on the human environment or affect a natural or cultural asset protected by an environmental statute or Executive Order.

Group 2—Those actions which require an environmental review because they may cause a significant environmental effect under NEPA or may affect a protected cultural or natural asset protected by an environmental statute or Executive order.

Group 3—Those actions which normally do cause a significant environmental effect under NEPA or affect a cultural or natural asset protected by an environmental statute or Executive Order.

In grouping each of its actions OPDIVs/STAFFDIVs shall use the exclusion categories described in Section 30–20–40. If an action falls within one of these exclusion categories, then it may be included in Group 1. Such actions do not require environmental reviews, except in circumstances described in 30–20–40. If an action does not fall within one of these exclusion categories, then an OPDIV/STAFFDIV must perform an environmental review prior to taking the action. Chapters 30–30 and 30–50 describe the procedures for conducting an environmental review.

Each OPDIV/STAFFDIV shall maintain as part of its organizational guidance documents lists of these actions which it has determined fall under Groups 1, 2, and 3 or shall have procedures that address such actions. These lists shall supplement other internal directives or instructions concerning environment-related responsibilities.

B. *Approval.* A determination by an OPDIV/STAFFDIV that an action falls within Group 1 (Categorically Excluded) is effective upon approval by the OPDIV/STAFFDIV head or, as required, after the issuance of specific guidance. However, OPDIVs/STAFFDIVs must report these determinations to the Assistant Secretary for Management and Budget. Determination that an action falls within Group 1 (Categorically Excluded) is effective until rendered inapplicable because of changes in the underlying program authority or regulation.

C. *Publication of Additional Categorical Exclusions by OPDIVs/STAFFDIVs.* An OPDIV/STAFFDIV may establish additional categorical exclusions that pertain to the actions of that OPDIV/STAFFDIV after review by the Assistant Secretary for Management and Budget and publication for public comment in the **Federal Register,** in accordance with the procedures established by that OPDIV/STAFFDIV. All categorical exclusions not covered by the general listing in **Federal Register**.

30–20–40 Categories of Exclusion

A. *Application of Categorical Exclusions*

1. *Required Determinations.* To find that an action is categorically excluded, an OPDIV/STAFFDIV shall determine the following:

(a) *Falls Within Exclusion Category.* The proposed action falls within one of the three exclusion categories described in this section. This determination may take place as the result of a program review of an OPDIV's/STAFFDIV's actions, in which case the action is listed in the OPDIV's/STAFFDIV's administrative issuance system as being categorically excluded from further environmental reviews.

(b) *Absence of Extraordinary Circumstances.* There are no extraordinary circumstances related to the proposal that may affect the significance of the environmental effects of the proposal. Extraordinary circumstances are unique situations presented by specific proposals, such as scientific controversy about the environmental effects of the proposal; uncertain effects or effects involving unique or unknown risks; or unresolved conflicts concerning alternate uses of available resources within the meaning of section 102(2)(E) of NEPA; and where it is reasonable to anticipate a cumulatively significant impact on the environment. See 40 CFR 1508.27 for examples.

2. All categorical exclusions in this Part may be applied by any organizational element of HHS.

3. A class of actions includes activities foreseeably necessary to proposals encompassed within the class of actions (such as associated transportation activities and award of implementing grants and contracts).

B. *Categories of Actions Which May Be Excluded From Environmental Review.* Categories of actions which may be excluded from environmental review include, but are not limited to the following:

1. *Category No. 1—General Exclusions:*

(a) When a law or regulation grants an exception, unless precluded by an OPDIV/STAFFDIV regulation;

(b) When the courts have found that the action does not require environmental review; and

(c) When an action implements actions outside the territorial jurisdiction of the United States and such actions are excluded from review by Executive Order 12114.

2. *Category No. 2—Functional Exclusions:*

(a) Routine administrative and management support, including legal counsel, public affairs, program evaluation, monitoring and individual personnel actions;

(b) Appellate reviews when HHS was the plaintiff in the lower court decision (*e.g.,* a case involving failure by a nursing home to comply with fire and safety regulations);

(c) Information technology management;

(d) Education and training grants and contracts (*e.g.,* grants for remedial training programs or teacher training) except projects involving construction, renovation, or changes in land use;

(e) Grants for administrative overhead support (*e.g.,* regional health or income maintenance program administration);

(f) Grants for social services (*e.g.,* support for Head Start, senior citizen programs or drug treatment programs) except projects involving construction, renovation, or changes in land use;

(g) Liaison functions (*e.g.,* serving on task forces, ad hoc committees or representing HHS interests in specific functional areas in relationship with other governmental and non-governmental entities);

(h) Maintenance (*e.g.,* undertaking repairs necessary to ensure the functioning of an existing facility), except for properties on or eligible for listing on the National Register of Historic Places;

(i) Statistics and information collection and dissemination (*e.g.,* collection of health and demographic data and publication of compilations and summaries);

(j) Technical assistance by HHS program personnel (*e.g.,* providing assistance in methods for reducing error rates in State public assistance programs or in determining the cause of a disease outbreak); and

(k) Adoption of regulations and guidelines pertaining to the above activities (except technical assistance and those resulting in population changes).

(e) *Category 3—Program Exclusions.* These exclusions, when applicable, result from a substantive review and determination by an OPDIV/STAFFDIV that certain programs or certain activities within a program will not normally (a) significantly affect the human environment (as defined by NEPA) or (b) affect an asset (as defined in an applicable environmental statute or Executive Order) regardless of the location or magnitude of the action. For example, and OPDIV/STAFFDIV, following its review, might determine that the following are unlikely to cause an environmental effect: assigning a member of the commissioned Corps to a locality to supplement existing medical personnel or providing funds to support expansion of emergency medical services in existing hospitals.

30–20–50 Environmental Review Procedures

An OPDIV/STAFFDIV must conduct environmental reviews with respect to all proposed actions that are subject to an environmental statute or Executive Order which do not fall under categorical exclusions 1, 2, or 3. Chapters 30–30 and 30–50 discuss the process for conducting an environmental review with respect to a specific proposed action and for fulfilling documentation and other requirements. Each OPDIV/STAFFDIV shall ensure that its programs have appropriate procedures for conducting environmental reviews, for completing required documentation, and for ensuring public involvement and intergovernmental consultation. These procedures must be in writing and be included in the internal organizational guidance documents or regulations. These procedures must, at a minimum, address the following:

A. A list of those actions which the OPDIV/STAFFDIV has categorically excluded from further environmental review requirements. Note that for any particular action, there still must be absence of extraordinary circumstances as noted in 30–20–40, A.1.(b).

B. A list of those actions or circumstances when actions require an environmental review prior to taking the action.

C. Designation of officials responsible for environment-related activities including determinations as to whether to prepare an environmental impact statement or an environmental assessment, if one is required.

D. Procedures for preparing and circulating environmental statements (including data required by the applicable environmental statute or Executive Order for the type of action covered).

E. Procedures for ensuring the coordination of environmental review with program decision-making, including concurrent development and circulation of environmental documents with program documents and the identification of key decision-making points.

F. Procedures for consulting with other Federal agencies responsible for the environmental statutes or Executive Orders, if necessary.

G. Procedures for developing lead agency agreements (as described in 30–30–20B and 30–50).

H. A prohibition against precluding or prejudicing selection of alternatives in an environmental impact statement without regard to environmental risks.

I. Procedures for establishing a reviewable record, including making environmental statements and related decision-making materials part of the record of formal rule-making and adjudicatory proceedings.

J. Provisions for early consultation and assistance to potential applicants and non-Federal entities in planning actions and developing information necessary for later Federal involvement (as described in 30–30–20C and 30–50).

K. Descriptions of circumstances which preclude completion of environmental reviews within reasonable time frames because of public health and safety considerations and procedures for after-the-fact completion.

L. Provision for ensuring that applications and other materials from potential grantees or other recipients of Departmental funds, on a program-by-program basis, include information necessary to conduct an environmental review. Such information shall include the identification of any properties which may be eligible for listing on the National Register of Historic Places.

M. Provision for identifying cultural assets which a program controls through leases or Federal ownership, and for nominating such historic properties to the National Register of Historic Places.

Subject: General Environmental Review Procedures

30–30–00 Overview

Certain environmental statutes and Executive Orders require an environmental review of proposed Federal actions to determine whether such actions will have environmental effects.

The purpose of this chapter is to describe overall the steps which Department officials must take in conducting environmental reviews of specific proposed actions. Within these general steps, the individual environmental acts differ significantly with respect to public involvement, intergovernmental consultation, and documentation required. The chapters at 30–40 and 30–50 following (entitled Natural Asset Review and NEPA Review) discuss these specific requirements in greater detail.

Note: The procedures and requirements in chapters 30–40 and 30–50 take precedence over the general statements in this chapter and must be consulted before determining the steps that must be taken with regard to a specific action. The discussion in this chapter generally does not apply to chapters 30–60 to 30–90.

30–30–10 Summary Description

The following is a summary description of the general types and sequence of activities which Departmental officials should carry out in reviewing specific proposed actions under this Part.

A. Determine that a proposed activity constitutes an action as defined under Section 30–00–30 (Definitions) that is subject to an environmental statute or Executive Order.

B. Determine whether the proposed action is categorically excluded from all environmental review requirements. If it is excluded, no further environmental review is necessary.

C. For proposed actions not categorically excluded, conduct an environmental review in accordance with applicable program environmental review procedures to determine whether the proposed action will cause an environmental effect under one or more of the environmental statutes or Executive Orders.

D. Determine whether it is necessary to prepare an environmental document, *e.g.,* an environmental assessment, and if necessary, an environmental impact statement under NEPA. Circulate the environmental document among the public, Federal, State and local agencies, and other interested parties, as appropriate.

E. Carry out the requirements for public involvement and intergovernmental consultation as required under the applicable environmental statutes or Executive Orders, including any necessary approvals.

F. Prepare the necessary environmental documentation and proceed with the program decision-making process.

30–30–20 Environmental Review

A. *General.* OPDIVs/STAFFDIVs must perform an environmental review for each proposed action not categorically excluded in accordance with the OPDIV's/STAFFDIV's environmental procedures. The purpose of an environmental review is to answer the following general questions: (Individual environmental acts differ with respect to the specific scope and methodology required in conducting an environmental review.)

1. Which environmental statutes or Executive Orders apply to the proposed action?

2. Will a proposed action have an environmental effect under any of the environmental statutes or Executive

Orders, as defined in regulation or by court interpretation?

3. Should this HHS OPDIV/STAFFDIV prepare an environmental assessment or an environmental impact statement, given the environmental statutes and Executive Orders involved and the kinds and degree of environmental effects anticipated?

B. *Agreements with Other Agencies.* When two or more agencies are engaged in the same action, a lead agency agreement provides one agency with the authority to conduct the environmental review. These agreements determine the content and type of statement and specify which Federal agency will prepare it. The agreement includes a schedule for the preparation and circulation of the document, as well as an assignment of important tasks among the agencies involved. Lead agency agreements may be signed with other agencies for individual actions or for a particular type of action.

C. *Non-Federal Agencies.* Whenever an HHS program requests or permits a non-Federal agency to perform an environmental review, the program shall outline the type of information required, perform an independent evaluation, and assume responsibility for the scope and content of the material.

30–30–30 Environmental Documents

A. On the basis of the environmental review, OPDIVs/STAFFDIVs shall determine what type of environmental document to prepare. Under NEPA, either an environmental assessment and finding of no significant impact or an environmental impact statement would generally be required. Environmental impact statements are prepared in two stages: draft and final. A final statement includes a consideration of comments submitted by persons or organizations reviewing the draft statement. Under some laws covered by this Part, an environmental assessment may also have to be prepared in draft for review and comment before being finalized.

The chapters at 30–40 and 30–50 following (Natural Asset Review and NEPA Review) discuss these different requirements in greater detail and must be consulted to ascertain the specific requirements of NEPA and each of the related statutes and Executive Orders.

B. *Description.*

1. *Environmental Impact Statements.* An environmental impact statement is a detailed written statement on, (i) the environmental impact of the proposed action, (ii) any adverse environmental effects which cannot be avoided, (iii) alternatives to the proposed action, (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity and (v) and irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented. Draft environmental impact statements shall not exhibit biases in favor of the proposed action. A final statement may include a recommendation with a rationale for a preferred action (see chapter 30–50 for correct NEPA terminology and process).

2. *Environmental Assessments.* An environmental assessment is generally a concise document which provides sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact. It shall include, in detail, the environmental impact of reasonable alternatives. OPDIVs/STAFFDIVs generally can use an environmental assessment in order to satisfy any review, consultation, and public notice requirements of the applicable environmental statutes and Executive Orders and to otherwise inform individuals and organizations who may be interested in or affected by the proposed action (see chapter 30–50 for correct NEPA terminology and process).

C. *Alternatives.* Environmental impact statements must explore and evaluate reasonable alternatives to the proposed action in terms of their environmental consequences, benefits and costs, and contribution to the underlying purpose or goal. Discussion of alternatives must be sufficiently in-depth to permit a meaningful comparison of alternative courses of action.

Environmental impact statements shall consider the following categories of alternatives, as appropriate:

1. *No Action By Any Organization.* This alternative serves as a baseline against which to measure the environmental consequences, costs, and benefits of the proposed action and other alternatives.

2. *Action Alternatives.* One or more alternative courses of action directed at achieving the underlying purpose or goal. The environmental impact statement cannot automatically exclude actions:

- Outside the expertise or jurisdiction of Departmental organizations, *e.g.,* examining the possible use of other real properties other than that proposed for transfer by HHS; or
- Which only partially achieve an underlying goal or objective, *e.g.,* funding a health care facility at a lower capacity for patient care. However, action alternatives considered must be reasonably available, practicable, and be related to the underlying purpose or goal. An environmental impact statement must include all reasonable alternatives.

3. *Alternative Safeguards.* These are alternative actions which could mitigate the adverse environmental consequences of one or more of the action alternatives.

4. *Delayed Action Alternative.* This alternative is to postpone or delay a proposed action in order to conduct more research or for other reasons.

5. *Alternative Uses.* When a proposed action would affect a scarce or valuable resource (e.g., prime agricultural farmland), the potential alternative uses of the resource must be identified so that they may be compared with the value of the proposed action.

30–30–40 Intergovernmental Consultation and Document Review

OPDIVs/STAFFDIVs are responsible for meeting the various requirements under environmental statutes and Executive Orders for intergovernmental consultation and public involvement. These requirements differ significantly. OPDIVs/STAFFDIVs must refer to the more detailed descriptions in 30–40 and 3–50 and should consult an environmental officer for guidance.

As required, OPDIVs/STAFFDIVs shall circulate draft environmental impact statements for review and comment, and otherwise make them available to the public upon request to the extent such statements are not protected from disclosure by existing law applicable to the agency's operation. Statements should be circulated to the Federal agency responsible for administering the applicable environmental act, involved non-Federal agencies at the State or local level, and interested public persons or groups within the geographic area of the environment affected. The review period is generally no less than 30 days for a draft environmental assessment and no less than 60 days for a draft environmental impact statement. Whenever a draft environmental impact statement is significantly revised because of comments received or because the nature or scope of the proposed action changes significantly, OPDIVs/STAFFDIVs shall prepare a new draft environmental impact statement for circulation. Circulation of certain portions of the document is not necessary when it involves the following:

A. *National Security.* Circulation of classified sections of environmental documents is subject to regulations

pertaining to matters of national security.

B. *Trade Secrets.* Circulation of sections of environmental documents that disclose a trade secret is subject to 18 U.S.C. 1905 or 21 U.S.C. 331(j) governing the protection and disclosure of trade secrets.

Subject: Natural Asset Review

30–40–00 Applicability of Consultation Requirements

The environmental statutes and Executive Orders described in this chapter require consideration of the effects of a proposed action on specific types of places or species. Generally, they prohibit further action until the Federal agency proposing to take action has consulted with the Federal or State agency responsible for administering the law. The species requiring consideration are listed by the Department of the Interior. The places requiring consideration are:

A. Coastal Zones (as identified in a State coastal zone management plan);

B. Habitats of Endangered Species (as identified by the Department of the Interior);

C. Streams and other bodies of water;

D. Floodplains (as identified on HUD floodplain maps);

E. Marine Sanctuaries (as identified by the Secretary of Commerce);

F. Sole Source Aquifers (as identified by the Environmental Protection Agency);

G. Wetlands (all); and

H. Wild and Scenic Rivers (as identified by the Departments of the Interior and Agriculture).

Table 1 indicates whether the administering agency has published regulations implementing the consultation requirement. OPDIVs/STAFFDIVs are responsible for consulting with the appropriate Federal or State agency before taking action in accordance with the procedures in this chapter and in the applicable statute, Executive Order, or implementing regulation.

TABLE 1.—AGENCY CONSULTATION PROCEDURES

Natural asset statute or executive order	Citation	Consultation procedures
Coastal Zone Management Act of 1972	16 U.S.C. §§ 1451–1464	15 CFR Part 930.
Endangered Species Act of 1973	16 U.S.C. §§ 1531–1544	50 CFR Part 402.
Fish and Wildlife Coordination Act	16 U.S.C. §§ 661–666c	16 U.S.C. § 662.
Executive Order 11988, Floodplain Management	42 FR 26951 (1977), as amended by E.O. 12148, 44 FR 43239 (1979); 16 U.S.C. § 4321 note.	Floodplain Management Guidelines, U.S. Water Resources Council, 43 FR 6030 (1978).
Marine Protection, Research, and Sanctuaries Act of 1972	16 U.S.C. §§ 1431–1445a; 33 U.S.C. §§ 1401–1445.	
Safe Drinking Water Act	42 U.S.C. §§ 300f–300j–26	42 U.S.C. § 300h–3; 40 CFR Part 149.
Executive Order 11990, Protection of Wetlands	42 FR 26961 (1977), as amended by E.O. 12608, 52 FR 34617 (1987); 42 U.S.C. § 4321 note.	
Wild and Scenic Rivers Act	16 U.S.C. §§ 1271–1287	36 CFR Part 297.

30–40–05 Integration With NEPA Review Process

OPDIVs/STAFFDIVs are responsible for reviewing all proposed actions to determine whether they will affect places and species described in this chapter. OPDIVs/STAFFDIVs are to evaluate the potential effects of a proposed action in accordance with the procedures for National Environmental Policy Act (NEPA) review in chapter 30–50. If an environmental assessment (EA) or environmental impact statement (EIS) is required to be prepared for the proposed action, the documentation required by the applicable statute or Executive Order and the administering agency regulations are to be included in the EA or EIS. In addition, the consultation procedures required by the environmental statute or Executive Order shall be followed.

30–40–10 Coastal Zone Management Act of 1972

A. *Purpose.* The Coastal Zone Management Act of 1972 (CZMA), 16 U.S.C. 1451–1464, declares that it is the national policy ''to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone * * *''. In furtherance of this policy, the Act provides Federal assistance to States for developing and implementing coastal zone management programs. Section 307(c)(1)(A) of the CZMA (16 U.S.C. 1456(c)(1)(A)) provides that ''[each Federal agency activity within or outside the coastal zone that affects any land or water use or natural resource of the coastal zone shall be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved State management programs.''

National Oceanic and Atmospheric Administration (NOAA) regulations codified at 15 CFR part 930, Subpart C—Consistency for Federal Activities, implements section 307 of the CZMA. These ''consistency'' regulations are designed to assure that all Federally conducted or supported activities, including development projects, directly affecting the coastal zone are undertaken in a manner consistent to the maximum extent practicable with approved State coastal management programs.

B. *Definitions.*

1. *Federal activity.* The term ''Federal activity'' means any functions performed by or on behalf of a Federal agency in the exercise of its statutory responsibilities. The term ''Federal activity'' does not include the issuance of a Federal license or permit to an applicant or person or the granting of Federal assistance to an applicant agency.

2. *Federal development project.* The term ''Federal development project'' means a Federal activity involving the planning, construction, modification, or removal of public works, facilities, or

other structures, and the acquisition, utilization, or disposal of land or water resources.

3. *Coastal Zone.* The CZMA defines the term ''coastal zone'' as ''the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal states, and includes islands, transitional and intertidal areas, salt marshes, wetlands, and beaches.'' Zone boundaries are described in 16 U.S.C. 1453(1). The CZMA excludes from the definition of coastal zone lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers, or agents (*e.g.,* nonterminated California Indian rancherias).

4. ''*Consistent to the maximum extent practicable.*'' The term ''consistent to the maximum extent practicable'' describes the requirement for Federal activities, including development projects, directly affecting the coastal zone of States with approved management programs to be fully consistent with such programs unless compliance is prohibited based upon the requirements of existing law applicable to the Federal agency's operations.

C. *Requirement.* An OPDIV/STAFFDIV undertaking any development project in the coastal zone of a State shall ensure that the project is, to the maximum extent practicable, consistent with the enforceable policies of approved State management programs.

OPDIVs/STAFFDIVs shall determine which of their activities directly affect the coastal zone of States with approved management programs. OPDIVs/STAFFDIVs shall consider all development projects within the coastal zone to be activities directly affecting the coastal zone. All other types of activities within the coastal zone are subject to OPDIV/STAFFDIV review to determine whether they directly affect the coastal zone. Federal activities outside of the coastal zone are subject to OPDIV/STAFFDIV review to determine whether they directly affect the coastal zone.

Integration with NEPA. OPDIVs/STAFFDIVs are to evaluate the potential effects of a proposed action affecting a coastal zone in accordance with the procedures for National Environmental Policy Act (NEPA) review in Chapter 30–50. If an environmental assessment (EA) or environmental impact statement (EIS) is required to be prepared for the proposed action, a consistency determination, described in 30–40–10E, shall be included in the EA or EIS.

E. *Consistency Determination.* OPDIVs/STAFFDIVs shall provide State agencies with consistency determinations for all Federal activities directly affecting the coastal zone. OPDIVs/STAFFDIVs are encouraged to consult with State agencies during their efforts to assess whether an action will be consistent to the maximum extent practicable with a State management program.

A consistency determination should be prepared following development of sufficient information to determine reasonably the consistency of the activity with the State's management program, but before the OPDIV/STAFFDIV reaches a significant point of decision-making in its review process. An OPDIV/STAFFDIV shall provide a consistency determination to the relevant State agency designated under section 306(d)(6) of the CZMA (16 U.S.C. 1455(d)(6)) at the earliest practicable time in the planning or reassessment of the activity, but in no case later than 90 days before final approval of the Federal activity, unless both the OPDIV/STAFFDIV and the State agency agree to a different schedule.

OPDIVs/STAFFDIVs must ensure that their activities are consistent to the maximum extent practicable with the enforceable, mandatory policies of the management program. However, OPDIVs/STAFFDIVs need only give adequate consideration to management program provisions which are in the nature of recommendations. Finally, OPDIVs/STAFFDIVs do not have to evaluate coastal zone effects for which the management program does not contain mandatory or recommended policies because, in the absence of such provisions, there is no basis for making a consistency determination with respect to such effects.

F. *Negative Determination.* If a OPDIV/STAFFDIV asserts that compliance with the management program is prohibited, it must clearly describe to the State agency the statutory provisions, legislative history, or other legal authority which limits the OPDIV's/STAFFDIV's discretion to comply with the provisions of the management program.

If a OPDIV/STAFFDIV decides that a consistency determination is not required for a Federal activity (1) identified by a State agency on its list or through case-by-case monitoring, (2) which is the same as or similar to activities for which consistency determinations have been prepared in the past, or (3) for which the OPDIV/STAFFDIV undertook a thorough consistency assessment and developed initial findings on the effects of the activity on the coastal zone, the OPDIV/STAFFDIV shall provide the State agency with a notification, at the earliest practicable time in the planning of the activity, briefly setting forth the reasons for its negative determination. A negative determination shall be provided to the State agency at least 90 days before final approval of the activity, unless both the OPDIV/STAFFDIV and the State agency agree to an alternative notification schedule.

G. *Content of a consistency determination.* The consistency determination shall include a brief statement indicating whether or not the proposed activity will be undertaken in a manner consistent to the maximum extent practicable with the management program. The statement must be based upon an evaluation of the relevant provisions of the management program. The consistency determination shall also include a detailed description of the activity, its associated facilities, and their coastal zone effects, and comprehensive data and information sufficient to support the consistency statement. The amount of detail in the statement evaluation, activity description, and supporting information shall be commensurate with the expected effects of the activity on the coastal zone.

If HHS standards are more restrictive than standards or requirements contained in the State's management program, the State should be informed in the consistency determination of the statutory, regulatory, or other basis for the application of the stricter standards.

If an OPDIV/STAFFDIV asserts that compliance with the management program is prohibited, it must clearly describe to the State agency the statutory provisions, legislative history, or other legal authority which limits the OPDIV's/STAFFDIV's discretion to comply with the provisions of the management program.

H. *State Review Period.* A State agency is required to inform the OPDIV/STAFFDIV of its agreement or disagreement with the consistency determination at the earliest practicable time. OPDIVs/STAFFDIVs may presume State agency agreement if the State agency fails to provide a response within 45 days from receipt of the consistency determination. State agency agreements shall not be presumed in cases where the State agency, within the 45 day period, requests an extension of time to review the matter.

OPDIVs/STAFFDIVs shall approve one request for an extension period of

15 days or less. In considering whether a longer or additional extension period is appropriate, consideration should be given by the OPDIV/STAFFDIV to the magnitude and complexity of the information contained in the consistency determination.

I. *Final Action.* An OPDIV/STAFFDIV shall not undertake final action sooner than 90 days from the issuance of the consistency or negative determination to the State agency unless both the OPDIV/STAFFDIV and the State agency agree to an alternative period.

J. *Mediation by Secretary of Commerce.* In the event of a serious disagreement between an OPDIV/STAFFDIV and a State agency regarding a determination related to whether a proposed activity directly affects the coastal zone, either party may seek the Secretarial mediation services provided for in Subpart G of 15 CFR part 930.

K. *Licenses, permits.* OPDIVs/STAFFDIVs shall follow the procedures in 15 CFR part 930 when the action involves an applicant for a Departmental license or permit.

L. *Excluded Actions.* The requirements in this section shall not apply to those types of actions which are specifically excluded by the approved CZM plan.

30–40–20 Endangered Species Act of 1973

A. *Purpose.* The Endangered Species Act of 1973, 16 U.S.C. 1531–1544, directs Federal agencies, in consultation with either the Secretary of the Interior or of Commerce, as appropriate, to carry out conservation programs for endangered or threatened species of fish, wildlife, or plants (''listed species'') and habitat of such species that has been designated as critical (''critical habitat''). Such affirmative conservation programs must comply with applicable permit requirements for listed species and should be coordinated with the appropriate Secretary.

Section 7(a)(2) of the Act (16 U.S.C. 1536(a)(2)) requires every Federal agency, in consultation with the assistance of the appropriate Secretary, to ensure that any action it authorizes, funds, or carries out, is not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat. The Act also requires Federal agencies to confer with the Secretary of the Interior or of Commerce on any action that is likely to jeopardize the continued existence of a proposed species or result in the destruction or adverse modification of a proposed critical habitat. The Act prohibits Federal agencies from making any irreversible or irretrievable commitment of resources which has the effect of foreclosing the formulation or implementation of reasonable and prudent alternatives which would avoid jeopardizing the continued existence of listed species or the destruction or adverse modification of critical habitat. Section 9 of the Act prohibits any unauthorized ''take'' of listed species. The U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) share responsibilities for administering the Act.

B. *Governing Regulations and Organization Responsible for Consultation.* Interagency consultation procedures under the Endangered Species Act are codified at 50 CFR part 402. The Lists of Endangered and Threatened Wildlife and Plants are found in 50 CFR 17.11 and 17.12. The designated critical habitats are found in 50 CFR 17.95 and 17.96 and 50 CFR part 226. Endangered or threatened species under the jurisdiction of the NMFS are located in 50 CFR 222.23(a) and 227.4. If the subject species is cited in 50 CFR 222.23(a) or 227.4, an OPDIV/STAFFDIV shall contact the NMFS. For all other listed species, an OPDIV/STAFFDIV shall contact the FWS.

C. *Definitions.* The regulations governing interagency cooperation and consultation under the ESA in 50 CFR part 402 define many of the terms and phrases that are used in the regulations and this section.

1. *Biological Assessment.* A biological assessment is a document, prepared by or under the direction of a Federal agency, concerning listed and proposed species and designated and proposed critical habitat that may be present in the action area and the evaluation of potential effects of the action on such species and habitat.

2. *Biological Opinion.* A biological opinion is the document that states the opinion or the FWS or the NMFS as to whether or not a proposed Federal agency action is likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. The Service may issue one of two types of opinions:

(a) *Jeopardy Biological Opinion.* An opinion by the Service that the proposed Federal agency action is likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of critical habitat is called a ''jeopardy biological opinion''.

(b) *No Jeopardy Biological Opinion.* An opinion by the Service that the proposed Federal agency action is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of critical habitat is called a ''no jeopardy'' biological opinion.

3. *Director.* The term ''Director'' refers to, as appropriate, the:

(a) Assistant Administrator for Fisheries for the National Oceanic and Atmospheric Administration or an authorized representative; or

(b) Fish and Wildlife Service Regional Director, or authorized representative, for the region where the action would be carried out.

4. *Listed Species.* Listed species means any species of fish, wildlife, or plant which has been determined to be endangered or threatened under section 4 of the Act. Listed species are found in 50 CFR 17.11–17.12.

5. *Service.* The term ''Service'' means the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, as appropriate.

D. *Integration with NEPA.* The consultation, conference, and biological assessment procedures required by section 7 of ESA that are summarized in this section may be consolidated with interagency cooperation procedures required by other statutes, such as the National Environmental Policy Act (NEPA) (Chapter 30–50) or the Fish and Wildlife Coordination Act (FWCA) (Chapter 30–40). Satisfying the requirements of these other statutes, however, does not in itself relieve an OPDIV/STAFFDIV of its obligations to comply with the procedures set forth in 50 CFR part 402 or the substantive requirements of section 7 of ESA. Where the consultation or conference has been consolidated with the interagency cooperation procedures required by other statutes such as NEPA or FWCA, the results should be included in the documents required by those statutes.

E. *Conference Regarding Proposed Species or Critical Habitat.* An OPDIV/STAFFDIV shall confer with the Director of the FWS or the NMFS, as appropriate, on any action which is likely to jeopardize the continued existence of any proposed species or result in the destruction or adverse modification of proposed critical habitat. The conference is an informal process that is designed to assist in identifying and resolving potential conflicts at an early stage in the planning process and can result in advisory recommendations from the Service regarding ways to minimize or avoid adverse effects from the proposed action. If the proposed species is subsequently listed or the proposed critical habitat is designated prior to

completion of an HHS action, the responsible OPDIV/STAFFDIV shall review the action to determine whether formal consultation is required. An OPDIV/STAFFDIV may request that a conference be conducted in accordance with the formal consultation procedures in 50 CFR 402.14.

The conclusions reached during a conference and any recommendations will be documented by the Service and provided to the OPDIV/STAFFDIV. The results of the conference shall be included in the HHS organization's appropriate documentation if the proposed action is being reviewed in accordance with NEPA procedures in Chapter 30–50.

F. *Biological Assessment*

1. *Purpose.* An OPDIV/STAFFDIV shall use the biological assessment in determining whether a conference is required with the Service. If the biological assessment indicates that the action is not likely to jeopardize the continued existence of proposed species or result in the destruction or adverse modification of proposed critical habitat, and the Director concurs, then a conference is not required. The Director may use the results of the biological assessment in (1) determining whether to request the OPDIV/STAFFFDIV to initiate a conference, (2) formulating a biological opinion, or (3) formulating a preliminary biological opinion.

2. *Requirement.* A biological assessment shall be prepared for all major construction activities. The biological assessment shall be completed before any contract for construction is entered into and before construction is begun.

3. *Request for information.* The OPDIV/STAFFDIV shall convey to the Director either (1) a written request for a list of any listed or proposed species or designated or proposed critical habitat that may be present in the action area; or (2) a written notification of the species and critical habitat that are being included in the biological assessment. Within 30 days of receipt of the notification of, or the request for, a species list, the Director shall either concur with or revise the list. If the Director advises that no listed species or critical habitat may be present, a biological assessment and further consultation is not required. If only proposed species or proposed critical habitat may be present in the action area, the OPDIV/STAFFDIV must confer with the Service if required under 50 CFR 402.10, but preparation of a biological assessment is not required unless the proposed listing and/or designation becomes final.

4. *Contents.* The contents of a biological assessment are at the discretion of the submitter and will depend on the nature of the Federal action. The following may be considered for inclusion:

(a) The results of an on-site inspection of the area affected by the action to determine if listed or proposed species are present or occur seasonally;

(b) The view of recognized experts on the species at issue;

(c) A review of the literature and other information;

(d) An analysis of the effects of the action on the species and habitat, including consideration of cumulative effects, and the results of any related studies;

(e) An analysis of alternate actions considered by the Federal agency for the proposed action.

5. *Submission of Biological Assessment.* The OPDIV/STAFFDIV shall submit the completed biological assessment to the Director for review within 180 days after its initiation. The Director will respond in writing within 30 days as to whether or not the Director concurs with the findings of the biological assessment. An OPDIV/STAFFDIV, at its option, may request that formal consultation be initiated concurrently with the submission of the assessment.

G. *Formal Consultation Process for Listed Species and Critical Habitat*

1. *Consultation Requirement.* An OPDIV/STAFFDIV shall review its actions at the earliest possible time to determine whether any action may affect listed species or critical habitat. If such a determination is made, formal consultation is required, except as noted in this subsection. An OPDIV/STAFFDIV need not initiate formal consultation if, as a result of the preparation of a biological assessment under 50 CFR 402.12 or as a result of information consultation with the Service under 50 CFR 402.13, the OPDIV/STAFFDIV determines, with the written concurrence of the Director of the Service, that the proposed action is not likely to adversely affect any listed species or critical habitat. Formal consultation shall not be initiated by an OPDIV/STAFFDIV until any required biological assessment has been completed and submitted to the Director in accordance with 50 CFR 402.12.

2. *Contents of Request.* A written request to initiate formal consultation shall be submitted to the Director of the Service and shall include:

(a) A description of the action to be considered;

(b) A description of the specific area that may be affected by the action;

(c) A description of any listed species or critical habitat that may be affected by the action;

(d) A description of the manner in which the action may affect any listed species or critical habitat and an analysis of any cumulative effects;

(e) Relevant reports, including any environmental impact statement, environmental assessment, or biological assessment prepared; and

(f) Any other relevant available information on the action, the affected listed species, or critical habitat.

An OPDIV/STAFFDIV that requests formal consultation shall provide the Service with the best scientific and commercial data available or which can be obtained during the consultation for an adequate review of the effects that an action may have upon listed species or critical habitat.

H. *Irreversible or Irretrievable Commitment of Resources.* After initiation or reinitiation of consultation required under ESA, and OPDIV/STAFFDIV shall make no irreversible or irretrievable commitment of resources with respect to the proposed action which has the effect of foreclosing the formulation or implementation of any reasonable and prudent alternatives which would avoid violating ESA. This prohibition remains in force during the consultation process and continues until the requirements of section 7(a)(2) of ESA are satisfied.

Note: The prohibition in this subsection does not apply to the conference requirement for proposed species or proposed critical habitat under section 7(a)(4) of the Act.

I. *Duration and Extension of Formal Consultation.* Formal consultation concludes within 90 days after its initiation unless extended in accordance with 50 CFR 402.14(e). If the Service does not respond within 90 days, the Department may reach its own conclusion with respect to whether the proposed action will jeopardize the continued existence of a species or result in the destruction or adverse modification of a critical habitat.

J. *Issuance of Biological Opinion.* The Service will provide a biological opinion to the OPDIV/STAFFDIV at the end of the consultation process as to whether the proposed action, taken together with cumulative effects, would be likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of a critical habitat. A ''jeopardy'' biological opinion by the Service will include reasonable and prudent alternatives, if any, to the proposed agency action that can be taken by the OPDIV/STAFFDIV to avoid violation of

ESA. If the Service is unable to develop such alternatives, it will indicate that to the best of its knowledge, there are no reasonable and prudent alternatives. The Service may also formulate discretionary conservation recommendations, if any, which will assist the OPDIV/STAFFDIV in reducing or eliminating the impacts that its proposed action may have on listed species or critical habitat.

The Service's ''no jeopardy'' or ''jeopardy'' biological opinion shall be included in any documentation required under NEPA procedures if the proposed action is being assessed in accordance with NEPA and the procedures in Chapter 30–50.

K. *Termination of Consultation Process.* Formal consultation is terminated with the issuance of the biological opinion or if, during any stage of consultation, an OPDIV/STAFFDIV determines, with the concurrence of the Director, that its proposed action is not likely to adversely affect any listed species or critical habitat. If an OPDIV/STAFFDIV determines that its proposed action is not likely to occur, it may terminate the consultation process by written notice to the Service.

L. *Responsibilities After Issuance of Biological Opinion.* Following the issuance of a biological opinion, an OPDIV/STAFFDIV shall determine whether and in what manner to proceed with the action in light of its ESA Section 7 obligations and the Service's biological opinion.

If a jeopardy biological opinion is issued, the OPDIV/STAFFDIV shall notify the Service of its final decision on the action. If the OPDIV/STAFFDIV determines that it cannot comply with the requirements of section 7(a)(2) of ESA after consultation with the Service, it may apply for an exemption. Procedures for exemption applications by Federal agencies and others are found in 50 CFR part 451. No action shall occur unless or until the OPDIV/STAFFDIV has received approval of the exemption.

M. *Emergencies.* The interagency cooperation regulation in 50 CFR part 402 provides that where emergency circumstances mandate the need to consult in an expedited manner, consultation may be conducted informally through alternative procedure that the Director determines to be consistent with the requirements of sections 7(a)–(d) of the Act. This provision applies to situations involving acts of God, disasters, casualties, national defense or security emergencies. An OPDIV/STAFFDIV may request expedited consultation by submitting information on the nature of the emergency action(s), the justification for the expedited consultation, and the impacts to endangered or threatened species and their habitats. Formal consultation is to be initiated as soon as practicable after the emergency is under control.

N. *Exemptions.* ESA provides procedures for granting exemptions from the requirements of section 7(a)(2). Regulations governing the submission of exemption applications are found at 50 CFR part 451, and regulations governing the exemption process are found at 50 CFR parts 450, 452, and 453.

O. *Applicant Procedures.* ESA and the implementing procedures in 50 CFR part 402 provide for participation in the conference and consultation processes by any person (as defined in section 3(13) of the Act) who requires formal approval or authorization from HHS as a prerequisite to conducting the action.

30–40–30 Fish and Wildlife Coordination Act

A. *Purpose.* The Fish and Wildlife Coordination Act, 16 U.S.C. 661–666c, provides for equal consideration of wildlife with other features of water resource development programs with a view toward conservation of wildlife resources. The Act requires Federal agencies involved in actions that will result in the control or modification of any natural stream or body of water, for any purpose, to take action to protect the fish and wildlife resources which may be affected by the action and to affirmatively provide development and improvement of the wildlife resources in connection with the proposed action.

B. *Responsibilities and Consultation Requirements*

1. An OPDIV/STAFFDIV shall consult, in accordance with 16 U.S.C. 662, with the United States Fish and Wildlife Service, Department of the Interior, and with the head of the State agency exercising administration over wildlife resources, before taking or approving an action that would control or modify any natural stream or other body of water for any purpose.

2. As part of the consultative process, OPDIVs/STAFFDIVs shall submit to the United States Fish and Wildlife Service and the State wildlife agency the appropriate environmental documentation, if needed for the consultation, that describes the possible effects of the proposed action on a natural stream or body of water.

3. An OPDIV/STAFFDIV shall determine, through the consultative process, the means and measures necessary to conserve wildlife resources by preventing loss of and damage to such resources, as well as providing for the development and improvement of the wildlife resources in connection with the proposed action.

4. OPDIVs/STAFFDIVs shall give full consideration to the report and recommendations of the U.S. Fish and Wildlife Service and to any report of the State agency on the wildlife aspects of a proposed action. Any plans for the proposed action shall include such justifiable means and measures for wildlife purposes as the OPDIV/STAFFDIV finds should be adopted to obtain maximum overall project benefits. All reports and recommendations of the U.S. Fish and Wildlife Service wildlife agencies shall constitute an integral part of any environmental report prepared pursuant to the action.

5. Reports and recommendations of the Secretary of Interior or State wildlife agencies shall be incorporated into any environmental documents that may be associated with the proposed action. 16 U.S.C. 662(b).

6. No further action shall take place pending receipt of a report from the U.S. Fish and Wildlife Service and State wildlife agency.

30–40–40 Floodplain Management

A. *Purpose.* Executive Order 11988, Floodplain Management, 42 FR 26951 (1977), as amended by Executive Order 12148, FR 43239 (1979), 42 U.S.C. 4321 note, directs each Federal agency to avoid the long and short term adverse impacts associated with the occupancy and modification of floodplains, including the direct and indirect support of floodplain development, whenever there is a practicable alternative. Floodplains are those areas identified as such according to a Federal Emergency Management Agency (FEMA) floodplain map. Guidance for implementation of Executive Order 11988 is provided in the U.S. Water Resources Council Floodplain Management Guidelines, 43 FR 6030. See also FEMA's ''Further Advice on Executive Order 11988 Floodplain Management'' (GPO 1987).

B. *Definitions.*

1. *Base Flood.* ''Base Flood'' means that flood which has a one percent of greater chance of occurrence in any given year.

2. *Floodplain.* ''Floodplain'' means the lowland and relatively flat areas adjoining inland and coastal waters, including flood-prone areas of offshore islands, including at a minimum, that area subject to a one percent or greater chance of flooding in any given year.

3. *Critical Action.* ''Critical Action'' means any activity for which even a

slight chance of flooding is too great, *e.g.* elderly housing proposals.

C. *Responsibilities.* Each OPDIV/STAFFDIV has the responsibility under Executive Order 11988 to take action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health, and welfare, and to restore and preserve the natural and beneficial values served by floodplains in carrying out its responsibilities for:

1. Acquiring, managing, and disposing of Federal lands and facilities;

2. Providing Federally undertaken, financed, or assisted construction and improvements; and

3. Conducting Federal activities and programs affected land use, including but not limited to, water and related land resources planning, regulating, and licensing activities.

Each OPDIV/STAFFDIV shall evaluate the potential effects of any actions it may take in a floodplain in accordance with the procedures in this section. It must also ensure that its planning programs and budget requests reflect consideration of flood hazards and floodplain management.

D. *Floodplain Determination.* Before taking an action, each OPDIV/STAFFDIV shall determine whether the proposed action will occur in a floodplain. OPDIVs/STAFFDIVs shall utilize the Flood Insurance Rate Maps (FIRMs) or the Flood Hazard Boundary Maps (FHBMs) prepared by the Federal Insurance Administration of FEMA to determine if a proposed action is located in a base or critical action floodplain. When a proposed action would be located in an area of predominantly Federal or State land holdings, and FIRM or FHBM maps are not available, OPDIVs/STAFFDIVs shall obtain information from the land administering agency (*e.g.,* Bureau of Land Management or Soil Conservation Service) or from agencies with floodplain analysis expertise.

E. *Integration With NEPA.* OPDIVs/STAFFDIVs are to evaluate the potential effects of a proposed action in a floodplain in accordance with the procedures for National Environmental Policy Act (NEPA) review in Chapter 30–50. If an environmental assessment (EA) or environmental impact statement (EIS) is required to be prepared for the proposed action, a floodplain assessment, described in 30–40–40D, shall be included in the EA or EIS.

F. *Floodplain Assessment (Executive Order 11988).*

1. *Proposed Action.* The floodplain assessment shall describe the nature and purpose of the proposed action and the reasons for locating the action in the floodplain.

2. *Floodplain Map.* A map of the affected floodplain indicating the location of the proposed action shall be included in the assessment.

3. *High Hazard Areas.* High hazard areas in the floodplain shall be delineated and the nature and extent of the proposed hazard shall be discussed.

4. *Floodplain Effects.* The effects of the proposed action on the floodplain shall be discussed in the assessment. The discussion shall include an evaluation of the long-and short-term effects of the proposed action on people, property, natural and beneficial floodplain values, and any other relevant direct or indirect effects.

5. *Alternatives and Mitigation Measures.* The floodplain assessment shall discuss alternatives to the proposed action that may avoid adverse effects and incompatible development in the floodplain, including the alternatives of no action or location at an alternate site. The assessment shall also discuss measures that mitigate the adverse effects of the proposed action.

6. *Conformity to Applicable State or Local Standards.* The floodplain assessment shall include a statement indicating whether the proposed action conforms to applicable State or local floodplain protection standards.

7. *Flood Insurance Program Standards.* An action taken in a floodplain must incorporate design features consistent with the standards in the Flood Insurance Program of the Federal Insurance Administration to minimize substantial harm to the floodplain.

G. *Public Review.* Circulation of draft environmental impact statements shall include the public and other interested individuals, including concerned Federal, non-Federal and private organizations. Interested parties shall have a period of 60 days for review and comment on draft environmental impact statements.

H. *Secretarial Approval.* No action shall take place without a finding by the HHS Secretary that the only practicable alternative consistent with the law and with the policy set forth in Executive Order 11988 requires siting in a floodplain. The action proposed for Secretarial approval shall be designed to minimize potential harm to or within the floodplain. The Secretary shall approve proposed actions requiring environmental impact statements on projects affecting floodplains.

I. *Notice of Finding.*

1. *Contents.* After Secretarial approval and prior to taking action, an OPDIV/STAFFDIV shall prepare and circulate a notice of finding containing an explanation of why the action is proposed to be located in a floodplain. The notice shall not exceed three pages and shall include a location map. The notice shall include (a) the reasons why the action is proposed to be located in a floodplain; (b) a statement indicating whether the action conforms to applicable State or local floodplain protection standards; and (c) a list of the alternatives considered.

2. *Public Review.* For programs subject to Executive Order 12372, the notice of finding shall be sent to the appropriate state and local reviewing agencies the geographic areas affected. A public review period of 30 days after the issuance of notice of finding shall be allotted before any action is taken.

J. *Licenses, permits, loans, or grants.* Each OPDIV/STAFFDIV shall take floodplain management into account when formulating or evaluating any water and land use plans and shall require land and water resources use appropriate to the degree of hazard involved. Adequate provision shall be made for the evaluation and consideration of flood hazards in the regulations and operating procedures for the licenses, permits, loan, or grant-in-aid programs that an OPDIV/STAFFDIV administers. OPDIVs/STAFFDIVs shall also encourage and provide appropriate guidance to applicants to evaluate the effects of their proposal in floodplains prior to submitting applications for Federal licenses, permits, loans, or grants.

K. *Authorizaiton or Appropriation Requests.* OPDIVs/STAFFDIVs shall indicate in any requests for new authorizations or appropriations whether the proposed action is in accord with Executive Order 11988 if the proposed action will be located in a floodplain.

30–40–50 Marine Protection, Research, and Sanctuaries Act of 1972

A. *Purpose.* Title III of the Marine Protection, Research and Sanctuaries Act prohibits Federal Departments from taking actions which will affect a Marine Sanctuary unless the Secretary of Commerce certifies that the activity is consistent with the purposes of the Act. Listings of sanctuaries are designated by the Secretary of Commerce and maps of sanctuaries appear in the Federal Register.

B. *Responsibilities and Consultation Requirements.*

1. If the proposed action will create an environmental effect on a marine sanctuary, OPDIVs/STAFFDIVs shall prepare an appropriate environmental document and forward it to the Secretary of Commerce.

2. No further action shall take place unless and until the Secretary certifies that the action is consistent with the purposes of the Act.

30–40–60 Safe Drinking Water Act (Sole Source Aquifers)

A. *Requirement.* Section 1424(e) of the Safe Drinking Water Act (42 U.S.C. 300h–3(e)), provides for the protection of those aquifers which have been designated by the Administrator of the EPA as the sole or principal source of drinking water for an area. No commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health. A commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

B. *Responsibilities and Consultation Requirements.*

1. OPDIVs/STAFFDIVs shall determine if a proposed action will directly or indirectly affect a sole or principal source aquifer designated by the Administrator of EPA in accordance with section 1424(e) of the Safe Drinking Water Act (42 U.S.C. 300h–3(e)).

2. If the action will affect a designated aquifer, OPDIVs/STAFFDIVs shall send the appropriate environmental document to the EPA Regional Administrator for a determination as to whether the proposed action may potentially contaminate the aquifer through its recharge zone so as to create a significant hazard to public health.

3. The action shall not proceed unless and until the Administrator of the Environmental Protection Agency determines that the proposed action will not contaminate the designated aquifer so as to create a significant hazard to public health.

30–40–70 Wetlands Protection

A. *Purpose:* Executive Order 11990, Protection of Wetlands, 42 FR 26961 (1977), as amended by Executive Order 12608, 52 F 34617 (1987), 42 U.S.C. 4321 note, directs each Federal agency to minimize the destruction, loss, or degradation of wetlands and to preserve and enhance such wetlands in carrying out their program responsibilities. Consideration must include a variety of factors, such as water supply, erosion and flood prevention, maintenance of natural systems, and potential scientific benefits.

B. *Definitions.–Wetlands.* The term ''wetlands'' means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas.

C. *Wetlands Determination.* OPDIVs/STAFFDIVs shall utilize information available from the following sources when appropriate to determine the applicability of the wetlands protection requirements of this section:

1. U.S. Department of Agriculture Soil Conservation Service Local Identification Maps;

2. U.S. Fish and Wildlife Service National Wetlands Inventory;

3. U.S. Geological Survey Topographic Maps;

4. State wetlands inventories; and

5. Regional or local government-sponsored wetland or land use inventories.

D. *Responsibilities.* OPDIVs/STAFFDIVs are to evaluate the potential effects of a proposed action in wetlands in accordance with the procedures for National Environmental Policy Act (NEPA) review in Chapter 30–50. If an environmental assessment (EA) or environmental impact statement (EIS) is required to be prepared for the proposed action, a wetlands assessment, described in 30–40–70E, shall be included in the EA or EIS.

E. *Wetlands Assessment (Executive Order 11990).*

1. *Proposed Action.* The wetlands assessment shall describe the nature and purpose of the proposed action and the reasons for locating the action in the wetlands.

2. *Wetlands Map.* A map of the affected wetlands indicating the location of the proposed action shall be included in the assessment.

3. *Wetlands Effects.* The effects of the proposed action on the wetlands shall be discussed in the assessment. The discussion shall include an evaluation of the long- and short-term effects of the proposed action on the survival, quality, and natural and beneficial values of the wetlands, and any other relevant direct or indirect effects.

4. *Alternatives and Mitigation Measures.* The wetlands assessment shall discuss alternatives to the proposed action that may avoid adverse effects and incompatible development in the wetlands, including the alternatives of no action or location at an alternate site. The assessment shall also discuss measures that mitigate the adverse effects of the proposed action. No further action shall take place until the OPDIV/STAFFDIV makes a decision that the proposed action includes all reasonable measures to minimize harm to the wetlands as a result of the proposed action.

5. *Conformity to Applicable State or Local Standards.* The wetlands assessment shall include a statement indicating whether the proposed action conforms to applicable State or local wetlands protection standards.

F. *Public Review.* Circulation of draft environmental impact statements shall include the public and other interested individuals, including concerned Federal, non-Federal and private organizations. Interested parties shall have a period of 60 days for review and comment on draft environment impact statements.

G. *Secretarial Review.* No further action shall take place until the Secretary of HHS determines that there is no practicable alternative to construction in wetlands and that the proposed action includes all practicable measures to minimize harm to the wetlands. The Secretary shall approve proposed actions requiring environmental impact statements for new construction in wetlands.

H. *Licenses and Permits.* These requirements do not apply to the issuance to individuals of permits and licenses and the allocation of funds made to individuals.

30–40–80 Wild and Scenic Rivers Act

A. *Purpose.* The purpose of the Act is to preserve selected free-flowing rivers, along with their immediate environments, for the benefit of immediate and future generations. These include river components and potential components of the National Wild and Scenic River System and study areas designated by the Secretaries of Agriculture and Interior. (Environmental officers keep a list of these rivers and related study areas). Designations used to describe these components, or parts thereof, include the following: (1) Wild; (2) scenic; and (3) recreational.

B. *Requirement.* Section 7 of the Wild and Scenic Rivers Act (16 U.S.C. 1278), provides for the protection of the free-flowing, scenic, and natural values of rivers designated as components or potential components of the National Wild and Scenic Rivers Systems from the effects of construction of any water resources project. The Wild and Scenic Rivers Act provides that no license,

permit, or other authorization can be issued for a Federally assisted water resources project on any portion of a Wild and Scenic River or Study River (nor can appropriations be requested to begin construction of such projects) without prior notice to the Secretary of Agriculture and the Secretary of the Interior, and a determination in accordance with section 7 of the Act. The Secretary of Agriculture and the Secretary of the Interior have issued Federal agency consultation procedures that are codified at 36 CFR part 297.

C. *Definitions.*

1. *Free-flowing.* ''Free-flowing'' is defined by section 16(b) of the Act as ''existing or flowing in natural condition without impoundment, diversion, straightening, riprapping, or other modification of the waterway'' (16 U.S.C. 1286(b)).

2. *Study Period.* ''Study period'' means the time during which a river is being studied as a potential component of the Wild and Scenic Rivers System and such additional time as provided in section 7(b)(ii) of the Act not to exceed 3 additional years during which a report recommending designation is before Congress, or such additional time as may be provided by statute.

3. *Study River.* ''Study river'' means a river and the adjacent area within one quarter mile of the banks of the river which is designated for study as a potential addition to the National Wild and Scenic Rivers System pursuant to section 5(a) of the Act.

4. *Water Resources Project.* ''Water resources project'' means any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (41 Stat. 1063) as amended, or other construction of developments which would affect the free-flowing characteristics of a Wild and Scenic River or Study River.

5. *Wild and Scenic River.* ''Wild and scenic river'' means a river and the adjacent area within the boundaries of a component of the National Wild and Scenic Rivers System pursuant to section 3(a) or 2(a)(ii) of the Act.

D. *Responsibilities and Consultation Requirements.* When a proposed action will have an effect upon an environment within or including a portion of a component, potential component, or study area, program personnel shall send a notice to the Secretary of the Interior for review.

E. *Contents of Notice.* The notice shall include the following information:

1. Name and location of affected river;

2. Location of the project;

3. Nature of the permit or other authorization proposed for issuance;

4. A description of the proposed activity; and

5. Any relevant information, such as plans, maps, and environmental studies, assessments, or environmental impact statements.

6. The notice shall also provide any additional factual information that will assist the Secretary in determining whether:

(a) the water resources project will have a direct and adverse effect on the values for which a Wild and Scenic River or Study River was designated, when any portion of the project is within the boundaries of said river; or,

(b) the effects of the water resources project will invade or unreasonably diminish the scenic, recreational, and fish and wildlife values of a Wild and Scenic River, when any portion of the project is located above, below, or outside the Wild and Scenic River; or,

(c) whether the effects of the water resources project will invade or diminish the scenic, recreational, and fish and wildlife values of a Study River when the project is located above, below, or outside the Study River during the study period.

F. *Examples.* The following are examples of circumstances which can affect a river component or study area:

1. Destruction or alteration to all or part of the free-flowing nature of the river;

2. Introduction of visual, audible, or other sensory intrusions which are out of character with the river or alter its setting;

3. Deterioration of water quality; or

4. Transfer or sale of property adjacent to an inventoried river without adequate conditions or restrictions for protecting the river and its surrounding environment.

G. *Response.* If the Department of the Interior does not respond within 30 calendar days or states that the proposed action will not directly or adversely affect the area, the Department is in compliance with the review requirements of the Act. However, in those instances where the Department of the Interior does not respond, programs shall take care to always avoid or mitigate adverse effects on river components and study areas.

If the Department of the Interior determines that the proposed action will directly and adversely affect the area, no further action shall take place whenever the proposed action involves the construction of a water resources project.

The above requirements do not apply to types of actions excluded from the review process by appropriate Department of Interior or Agriculture regulations.

H. *Integration with NEPA.* The determination of the effects of a proposed water resources project shall be made in compliance with the National Environmental Policy Act (NEPA). To the extent possible, OPDIVs/STAFFDIVs should ensure that any environmental studies, assessments, or environmental impact statements prepared for a water resources project adequately address the environmental effects on resources protected by the Wild and Scenic Rivers Act, and that the Department of Agriculture is apprised of ongoing analyses so as to facilitate coordination and identification of Wild and Scenic River related issues.

To the extent practicable, impacts on Wild and Scenic River values will be considered in the context of other review procedures as provided by law. OPDIVs/STAFFDIVs are encouraged to consult with the Forest Service in order to identify measures which could eliminate any direct and adverse effects, thereby increasing the likelihood of securing consent.

Subject: National Environmental Policy Act (NEPA) Review

30–50–00 Background

The National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321–4370d, establishes policy and requirements governing all Federal Departments and agencies with respect to protecting the environment. This

chapter supplements specific requirements established by NEPA and by the associated implementing regulations promulgated by the Council on Environmental Quality (CEQ) (40 CFR parts 1500–1508). This chapter also establishes Department policy and procedures with respect to the implementation of NEPA and provides guidance to HHS Staff Divisions (STAFFDIVs) and Operating Divisions (OPDIVs) in establishing additional regulations for implementing NEPA that are unique to each OPDIV/STAFFDIV.

NEPA requires all Federal Departments and agencies to assess, as an integral part of their decision making process, the potential environmental impacts of their actions prior to initiation of those actions. NEPA establishes environmental policy, set goals (Section 101), and provides procedures (Section 102) for carrying out the policy. Specifically, Section 102(2)(C) of NEPA requires all agencies of the Federal Government to include an environmental statement ''in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment * * *'' The purpose of this and other requirements is to ensure that environmental information is available to public officials and citizens before Federal agencies make decisions to take actions which could significantly affect the quality of the human environment.

30–50–05 Definitions and Acronyms

A. *CEQ Regulations Definitions.* Definitions that apply to the terms used in this chapter are set forth in the CEQ regulations under 40 CFR part 1508. The terms and the sections of 40 CFR part 1508 in which they are defined follow:

Categorical Exclusion (40 CFR 1508.4)
Cooperating Agency (40 CFR 1508.5)
Cumulative Impact (40 CFR 1508.7)
Effects (40 CFR 1508.8)
Environmental Assessment (EA) (40 CFR 1508.9)
Environmental Document (40 CFR 1508.10)
Environmental Impact Statement (EIS) (40 CFR 1508.11)
Federal Agency (40 CFR 1508.12)
Finding of No Significant Impact (FONSI) (40 CFR 1508.13)
Human Environment (40 CFR 1508.14)
Jurisdiction by Law (40 CFR 1508.15)
Lead Agency (40 CFR 1508.16)
Legislation (40 CFR 1508.17)
Major Federal Action (40 CFR 1508.18)
Mitigation (40 CFR 1508.20)
NEPA Process (40 CFR 1508.21)
Notice of Intent (40 CFR 1508.22)
Proposal (40 CFR 1508.23)
Scope (40 CFR 1508.25)
Significantly (40 CFR 1508.27)

B. *Chapter 30–50 Definitions.* The following terms are defined solely for the purpose of implementing the supplemental procedures provided by this chapter and are not necessarily applicable to any other statutory or regulatory requirements. To the extent that a definition of one of these terms should conflict with a definition in an applicable statute, regulation or Executive Order, that statute, regulation or Executive Order definition shall supersede the GAM definition.

''Department'' means the U.S. Department of Health and Human Services (HHS).

''Pollution Prevention'' includes, but is not limited to, reducing or eliminating hazardous or other polluting inputs, which can contribute to both point and non-point source pollution; modifying manufacturing, maintenance, or other industrial practices; modifying product designs; recycling (especially in-process, closed loop recycling); preventing the disposal and transfer of pollution from one media to another; and increasing energy efficiency and conservation. Pollution prevention can be implemented at any stage—input, use or generation, and treatment—and may involve any technique—process modification, waste stream segregation, inventory control, good housekeeping or best management practices, employee training, recycling, and substitution. Any reasonable mechanism which successfully avoids, prevents, or reduces pollutant discharges or emissions other than by the traditional method of treating pollution at the discharge end of a pipe or stack should, for purposes of this chapter, be considered pollution prevention. (This definition of ''pollution prevention'' has been adopted by CEQ. See Council on Environmental Quality, ''Memorandum to Heads of Federal Departments and Agencies Regarding Pollution Prevention and the National Environmental Policy Act,'' 58 FR 6478 (1993).)

Note: A definition of ''pollution prevention'' that has been developed by the U.S. Environmental Protection Agency is used in Chapters 30–60 through 30–90.

''Responsible official'' means the Secretary, the Departmental decision-maker designated by the Secretary of Health and Human Services or the Secretary's designated representative, or the Head of an OPDIV/STAFF, or an official designated by the Head of an OPDIV/STAFFDIV, or the Federal agency official who makes the decision to irreversibly and irretrievably commit the agency's resources to execute the proposed action.

C. *Acronyms.* The following acronyms are used in this chapter:

CEQ—Council on Environmental Quality
CFR—Code of Federal Regulations
EA—Environmental Assessment
EIS—Environmental Impact Statement
EPA—Environmental Protection Agency
FONSI—Finding of No Significant Impact
HHS—U.S. Department of Health and Human Services
NEPA—National Environmental Policy Act of 1969
NOI—Notice of Intent
OPDIV—HHS Operating Division
ROD—Record of Decision
STAFFDIV—HHS Staff Division
U.S.C.—United States Code

30–50–10 Applicability

This chapter applies to all organizational elements of HHS. This chapter applies to any HHS action affecting the quality of the environment of the United States, its territories, or possessions. HHS actions having environmental effects outside of the United States, its territories or possessions are subject to the provisions of Executive Order 12114, Environmental Effects Abroad of Major Federal Actions, 44 FR 1957 (1979), 42 U.S.C. 4321 note. HHS guidelines implementing Executive Order 12114 are located at Section 30–50–75.

30–50–15 Responsibilities

All HHS policies and programs will be planned, developed, and implemented so as to achieve the policies declared by NEPA and required by the CEQ regulations to ensure responsible stewardship of the environment for present and future generations.

Environmental impact consideration is an integral part of HHS's planning and decision-making process. For actions initiated by the Department or one of its OPDIVs/STAFFDIVs, the process begins when an issue is identified that requires action under the statutes it administers. The identifying organization also may issue a public call for environmental data or otherwise consult with affected individuals or groups when a contemplated action in which it is or may be involved poses potentially significant environmental impacts.

Assessment of environmental factors continues throughout planning and is integrated with other program planning at the earliest possible time. Assessment of environmental factors includes the identification of the parts of the environment that may be affected by the action, the evaluation of pertinent

environmental data, and the consideration of alternatives consistent with 40 CFR 1502.14.

NEPA and the CEQ regulations establish a mechanism for building environmental considerations into federal agency decision-making. This mechanism will be used to incorporate pollution prevention into the early planning stages of a proposal.

OPDIVs/STAFFDIVs shall determine, utilizing the procedures in the CEQ regulations and this chapter, whether any HHS proposal:

1. Is categorically excluded from preparation of an EIS or an EA (30–50–25; 30–20–40);

2. Requires preparation of an EA (30–50–30);

3. Requires preparation of an EIS (30–50–35).

OPDIVs/STAFFDIVs may choose to prepare a NEPA document for any HHS action at any time to further the purposes of NEPA.

OPDIVs/STAFFDIVs shall determine for each major federal action (hereinafter ''action'') not categorically excluded, the data needed for an environmental assessment and a system for acquiring such data. OPDIVs/STAFFDIVs shall prepare an environmental assessment for each proposed action not categorically excluded and, as a result of its findings prepare a Finding of No Significant Impact (FONSI) or an Environmental Impact Statement (EIS).

30–50–20 Purpose, Content, and Availability of Environmental Documents

Sections 30–50–40 through 30–50–65 describe the environmental documents that may be required during the process of considering the environmental aspects of an action. These sections describe the various types of NEPA documents including their purposes and contents. OPDIVs/STAFFDIVs may publish in the **Federal Register** additional requirements for the preparation of environmental documents under their responsibility. Data and information that are protected from disclosure by 18 U.S.C. 1905 or 21 U.S.C. 331(j) or 360j(c) or other applicable laws shall not be included in environmental documents prepared under this chapter. When such data and information are pertinent to the environmental review of a proposed action, an applicant or petitioner shall submit such data and information separately as a confidential section of the application or petition, but shall summarize the confidential data and information in the environmental document to the extent possible.

30–50–25 Actions That May Be Excluded From the Requirement To Prepare an Environmental Assessment or an Environmental Impact Statement

Categorical Exclusions. Actions within a class that individually or cumulatively have been determined under Section 30–20–40 not to significantly affect the quality of the human environment ordinarily are excluded from the preparation of an EA or EIS. To find that a proposed action is categorically excluded, OPDIVs/STAFFDIVs shall determine if:

1. The proposal fits within a class of actions described in 30–20–40 or a categorical exclusion developed by the OPDIV/STAFFDIV in accordance with 30–20–30; and

2. No extraordinary circumstances are related to the proposed action that may affect the significance of the environmental effects of the proposal.

30–50–30 Other Actions Requiring Preparation of an Environmental Assessment (EA) or an Environmental Impact Statement (EIS)

Any proposed action of a type specified in this section ordinarily requires the preparation of an EA, unless it qualifies for exclusion under Section 30–20–40. Such actions include:

1. Major recommendations or reports made to Congress on proposals for legislation in instances where the Department or OPDIV/STAFFDIV has primary responsibility for the subject matter involved; and

2. Actions Involving Extraordinary Circumstances. As provided by 40 CFR 1508.4, and EA or an EIS will be required for any specific action that ordinarily is excluded if the OPDIV/STAFFDIV has sufficient evidence to establish that the specific proposed action may significantly affect the quality of the human environment. OPDIVs/STAFFDIVs shall prepare an EA when there are extraordinary circumstances in which a normally excluded action may have a significant environmental effect. Extraordinary circumstances include the following:

(a) Unique situations presented by specific proposals, such as scientific controversy about the environmental effects of the proposal;

(b) Uncertain effects or effects involving unique or unknown risks; or

(c) Unresolved conflicts concerning alternate uses of available resources within the meaning of Section 102(2)(E) of NEPA.

3. Actions Involving Cumulative Impacts. The CEQ regulations require consideration of three types of actions when determining the scope of environmental impact statements. These actions are: (1) Connected actions; (2) cumulative actions; and (3) similar actions. An action may have three types of impacts: (1) Direct; (2) indirect; or (3) cumulative. A determination that an action is categorically excluded will be precluded if the action is connected to another action that may require an environmental impact statement or when viewed with other proposed actions may have cumulatively significant impacts. CEQ defines ''connected actions'' and ''cumulative actions'', at 40 CFR 1508.25, as follows:

(a) *Connected Actions.* ''Connected'' actions means actions that are closely related and therefore should be discussed in the same impact statement. Actions are connected if they:

(i) Automatically trigger other actions which may require environmental impact statements;

(ii) Cannot or will not proceed unless other actions are taken previously or simultaneously; or

(iii) Are interdependent parts of a larger action and depend on the larger action for their justification.

(b) *Cumulative Actions.* ''Cumulative actions'' are actions which, when viewed with other proposed actions, have cumulatively significant impacts and should therefore be discussed in the same impact statement.

30–50–35 Categories of Actions Requiring Preparation of an Environmental Impact Statement (EIS)

EIS's are prepared for HHS organization actions when:

1. Evaluation of data in an Environmental Assessment (EA) leads to a finding by the responsible official that a proposed action may significantly affect the quality of the human environment under the criteria in 40 CFR 1508.14 and 1508.27; or

2. Initial evaluation by the responsible official of any action, including any action for which an EA would otherwise be required, establishes that significant environmental effects may be associated with one or more of the probable courses of action being considered.

30–50–40 Environmental Assessments

A. *Purpose.* As defined by CEQ in 40 CFR 1508.9, an Environmental Assessment (EA) is the public document in which environmental and other pertinent information on a proposed action are presented, providing a basis for a determination whether to prepare an Environmental Impact Statement (EIS) or a Finding or Significant Impact (FONSI).

An EA shall be prepared for each action not excluded pursuant to Section

30–20–40. The EA shall be a complete, objective, and well-balanced document that allows the public to understand the HHS organization's decision.

B. *Contents.* The EA shall:

1. Briefly provide sufficient evidence and analysis for determining whether to prepare an EIS or FONSI;

2. Briefly discuss the need for the proposed action;

3. Describe the potential environmental impacts of the proposed action;

4. Describe measures, including suitable pollution prevention techniques, which would be taken to avoid or mitigate potential environmental impacts associated with the proposed action;

5. Describe in detail the environmental impact of reasonable alternatives to the proposed action (including no action), particularly those that will enhance the quality of the environment and avoid some or all of the adverse environmental effects of the proposed action;

6. Include a comparative analysis of environmental benefits and risks of the proposed action and alternatives, identifying the preferred action based on environmental factors;

7. Include, if appropriate, a floodplain/wetlands assessment prepared under Sections 30–40–40 or 30–40–70 and analyses needed for other environmental determinations;

8. List those persons preparing the assessment and their areas of expertise and persons and agencies consulted; and

9. List complete citations for all referenced documents and include copies of referenced articles that are not generally available.

Consistent with 40 CFR 1500.4(j) and 1502.21, EAs may incorporate by reference information presented in other documents that are reasonably available to HHS and to the public within the time to comment.

OPDIVs/STAFFDIVs may specify formats and additional content of EAs that are required to be prepared for proposed actions within their responsibility. A notice of the availability of OPDIV/STAFFDIV formats and instructions for preparation of environmental assessments shall be published in the **Federal Register**.

C. *Criteria.* In determining whether a proposed action will or will not ''significantly affect the quality of the human environment.'' OPDIVs/STAFFDIVs should evaluate the expected environmental consequences of a proposed action by means of the following steps, utilizing the guidance provided in 40 CFR 1508.27:

Step One—Identify those things that will happen as a result of the proposed action. An action normally produces a number of consequences. For example, a grant to construct a hospital may terminate human services; will involve destruction and construction; will provide a service. Actions may be connected, cumulative, or similar (see 40 CFR 1508.25(a)).

Step Two—Identify the ''human environments'' that the proposed action will affect. In accordance with 40 CFR 1508.27, the significance of an action must be analyzed in several contexts, such as society as a whole (human, national), the affected region, the affected interests, and the locality. The significance of an action will vary with the setting of the proposed action. Environments may include terrestrial, aquatic, subterranean, and aerial environments, such as islands, cities, rivers or parts thereof.

Step Three—Identify the kinds of effects that the proposed action will cause on these ''human environments.'' A change occurs when a proposed action causes the ''human environment'' to be different in the future than it would have been, absent the proposed action. These changes involve the introduction of various ''resources'' (including those often characterized as waste).

Example: A decrease in the amount of soil entering a stream; the introduction of a new chemical compound to natural environments.

In addition to organisms, substances, and compounds, the term ''resources'' include energy (in various forms), elements, structures, and systems (such as a trash collection service in a city). Present environmental impacts and reasonably foreseeable future environmental impacts must be considered.

In identifying changes caused by the proposed action, OPDIVs/STAFFDIVs should identify the magnitude of the changes likely to be caused within smaller and larger ''human environments'' affected (*e.g.,* part of a city, the whole city, the metropolitan area).

The impacts resulting from the proposed action may be direct, indirect, or cumulative (see 40 CFR 1508.25(c)).

Step Four—Identify whether these changes are significant. The following points should be considered in conjunction with 40 CFR 1508.8 (effects), 40 CFR 1508.14 (human environment), and 40 CFR 1508.27 (''significantly'') in making a decision concerning significance:

- A change in the characterization of an environment is significant (*e.g.,* from terrestrial to aquatic);
- The establishment of a species in or removal of a species from an environment may be significant;
- The more dependent an environment becomes on external resources, the larger the magnitude of change (and the more likely it is to be significant);
- The larger the environment under consideration, the lower the amount of change needed before the change may be significant.

The CEQ regulations in 40 CFR 1508.27 describe a number of factors that should be considered in evaluating severity (intensity) of an impact. OPDIVs/STAFFDIVs should consider the cumulative effect of the proposed action. An action may be individually insignificant but cumulatively significant when the action is related to other actions. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.

Step Five—Consider alternatives to the proposed action. Alternatives to the proposed action include:

- No action alternative;
- Other reasonable courses of action; and
- Mitigation measures.

30–50–45 Findings of No Significant Impact

A. *Purpose.* A Finding of No Significant Impact (FONSI) is a document prepared by an OPDIV/STAFF that briefly presents the reasons why an action, not otherwise excluded (see 30–20–40), will not have a significant effect on the human environment and for which, therefore, an EIS will not be prepared (40 CFR 1508.13).

B. *Responsibilities.* The responsible official will evaluate the information contained in the EA to determine whether it is accurate and objective, whether the proposed action may significantly affect the quality of the human environment, and whether an EIS will be prepared. The responsible official will examine the environmental effects of the proposed action and the alternative courses of action, select a course of action, and ensure that any necessary mitigating measures are implemented as a condition for approving the selected course of action. When the responsible official has determined that the proposed action will not have a significant effect on the

human environment, the responsible official will sign the FONSI, thereby establishing that the official approves the conclusion not to prepare an EIS for the action under consideration.

A FONSI shall be prepared only if the related EA supports the finding that the proposed action will not have a significant effect on the quality of the human environment. The environmental assessment (or a summary of the EA) shall be included as a part of the FONSI.

If significant effects requiring the preparation of an EIS are identified, a Notice of Intent (NOI) to prepare an EIS will be published in the **Federal Register** in accordance with § 30–50–55. If an EA does not support a FONSI, an EIS shall be prepared and a Record of Decision (ROD) issued before action is taken on the proposal addressed by the EA, except as permitted under 40 CFR 1506.1.

C. *Contents.* The FONSI shall include the following:

1. The supporting EA or a summary of it (including a brief description of the proposed action and alternatives considered in the EA, environmental factors considered, projected impacts);

2. References to any other related environmental documents (40 CFR 1501.7(a)(5));

3. Any mitigation measures that will render the impacts of the proposed action not significant;

4. Any findings required by Sections 30–40–40 or 30–40–70 in conneciton with floodplain or wetlands environmental reviews;

5. The date of issuance; and

6. The signature of the approving official.

If the assessment is included, the FONSI need not repeat any of the discussion in the assessment but may incorporate it by reference.

D. *Proposed Action.* An OPDIV/STAFFDIV may proceed with the proposed action after the FONSI is issued, subject to any mitigation measures identified in the FONSI that are essential to render the impacts of the proposed action not significant.

30–50–50 Public Availability of Environmental Assessments and Findings of No Significant Impact

A. *Public Availability of FONSI and EA.* OPDIVs/STAFFDIVs shall make a FONSI and its related EA available to the public as provided in the CEQ regulations at 40 CFR 1500.6, 1501.4(e)(1) and 1506.6, including making copies available for inspection in public reading rooms or other appropriate locations for a reasonable time.

B. *Public Availability of FONSI.* For a limited number of actions, the proposed FONSI and its related EA will be made available for public review (including review by state and area-wide information clearinghouses) for 30 days before a final determination is made whether to prepare an EIS and before the action may begin. This procedure will be followed when the proposed action is, or is closely similar to, one that normally requires an EIS or when the proposed action is one without precedent (40 CFR 1501.4(e)). OPDIVs/STAFFDIVs may issue a proposed FONSI for public review and comment in other situations as well.

C. *Revised FONSI.* If a FONSI is revised, it is subject to the public availability requirements of this section.

30–50–55 Notice of Intent and Scoping

A. *Purpose.* The Notice of Intent (NOI) notifies the public that an EIS will be prepared and considered (40 CFR 1508.22). This determination may be based on information contained in an EA or on other available information which indicates that potentially significant effects may be associated with a proposed action.

B. *Responsibilities.* When an environmental assessment indicates that a significant environmental impact may occur and significant adverse impacts can not be eliminated by making changes in the project, an NOI shall be published in the **Federal Register** as soon as practicable after the responsible official has made a decision to prepare an EIS and before the scoping process. When the responsible official finds that there will be a lengthy period between the decision to prepare an EIS and the time of actual preparation, the NOI may be published at a reasonable time in advance of preparation of the draft EIS.

C. *Contents.* As required by 40 CFR 1508.22, the NOI will:

1. Describe the proposed action and possible alternatives;

2. Describe the proposed scoping process, which may include a request for information or suggestions regarding the scope of the EIS;

3. State whether a public scoping meeting will be held, and the location, date, and time of such meeting; and

4. State the identification of persons within the HHS organization to contract for information about the proposed action and the EIS.

D. *Scoping.* Publication of the NOI in the **Federal Register** begins the scoping process. Scoping is an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action (40 CFR 1501.7). The scoping process for an EIS shall be undertaken in accordance with the procedures in 40 CFR 1501.7. An NOI shall be made available to the public in accordance with 40 CFR 1500.6 and 1506.6. OPDIVs/STAFFDIVs shall allow a minimum of 30 days for the receipt of public comments during the scoping process.

E. *Public Scoping Meetings.* A public scoping meeting normally will be conducted whenever an NOI has been published, except that a public scoping process is optional for supplemental EISs (40 CFR 1502.9(c)(4)). Public scoping meetings shall not be held until at least 15 days after public notification. 40 CFR 1506.6(c)(2).

F. *Scoping Issues.* Pollution prevention should be considered an issue in the scoping process because it will encourage those outside the HHS organization to provide insights into pollution prevention technologies that might be available for use in connection with the proposal or its possible alternatives.

30–50–60 Environmental Impact Statements

A. *General.* An OPDIV/STAFFDIV responsible for carrying out a specific action is responsible for preparation of an EIS, if one is required. The final text of an EIS will be prepared by the responsible official after comments on the draft statement have been addressed and received full consideration in the OPDIV/STAFFDIV's decision-making process.

B. *Cooperation With Other Federal Agencies.* In cases in which HHS participates with other Federal agencies in a proposed action, one agency will be the lead agency and will supervise preparation of an EIS if one is required. A Memorandum of Understanding among all involved agencies may be useful in summarizing the relative responsibilities of all involved agencies. Lead agency responsibility should be determined in accordance with 40 CFR 1501.5.

HHS will act as a cooperating agency if requested. HHS may request to be designated as a cooperating agency if proposed actions may affect areas of HHS responsibility. As a cooperating agency, HHS will comply with the procedures in 40 CFR 1501.6(b) to the extent possible, depending on program commitments and the availability of funds and personnel.

Within the Department, lead or cooperating agency responsibility will be exercised by the OPDIV/STAFFDIV that is responsible for the subject matter of the proposed action. If a proposed action affects more than one OPDIV/

STAFFDIV, the Secretary will designate one of the OPDIVs/STAFFDIVs to be responsible for coordinating the preparation of required environmental documentation.

C. *Cooperation With States.* In cases in which an OPDIV/STAFFDIV participates with state and local governments in a proposed action, the OPDIV/STAFFDIV is responsible for preparing an EIS. However, a state agency may jointly prepare the statement if it has state-wide jurisdiction and HHS participates in its preparation, including soliciting the views or other state or Federal agencies affected by the statement.

D. *Proposals for Legislation.* A legislative EIS must be prepared for any legislative proposal developed by HHS which would significantly affect the quality of the human environment. A legislative EIS shall be submitted to Congress at the time the legislation is proposed to Congress or up to 30 days afterwards. Except as provided in 40 CFR 1506.8, a draft EIS shall accompany a legislative proposal. A scoping process is not required for a legislative EIS.

E. *Responsibilities.* Except for proposals for legislation, OPDIVs/STAFFDIVs shall prepare EISs in two stages: Draft and final. The responsible official will ensure that:

1. All reasonable alternatives (including no action) are rigorously explored and objectively evaluated,

2. There is balancing of environmental impacts with the OPDIV's/STAFFDIV's objective in choosing an appropriate course of action;

3. Appropriate mitigation measures are included in the proposed action or alternatives;

4. Diligent efforts are made to provide an opportunity for the public to participate in the environmental review process;

5. Comments on a draft EIS are carefully assessed and considered; and

6. The preferred alternative is the alternative which the OPDIV/STAFFDIV believes would fulfill its statutory mission and responsibilities giving consideration to economic, environmental, technical and other factors.

F. *OPDIV/STAFFDIV Action.* Except as provided at 40 CFR 1506.1 and 1506.10(b) and this section, no HHS OPDIV/STAFFDIV decision on the proposed action shall be made or recorded until at least 30 days after the publication by EPA of notice that the particular EIS has been filed with EPA. If the subject of a final statement is also the subject of a regulation published in the **Federal Register**, this requirement may be met by simultaneous publication of the regulation and of a Notice of Availability of the final statement and the Record of Decision, provided that the regulation becomes effective no sooner than 30 days after the date of publication, unless such regulation is subject to formal internal appeal. For regulations subject to formal internal appeal, the period for formal appeal of the decision and the 30 day period may run concurrently.

G. *Record of Decision.* A Record of Decision (ROD) shall be prepared by the responsible official when an HHS organization decides to take action on a proposal covered by an EIS. See 40 CFR 1505.2. No action shall be taken until the decision has been made public, except as provided at 40 CFR 1500.6 and 1506.1. The contents of a ROD are specified in 30–50–65. (See further discussion in 30–50–65)

H. *Emergency Actions.* There are certain HHS organization actions which, because of their immediate importance to the public health, make adherence to the requirements of the CEQ regulations and this section concerning minimum periods of public review impractical. Compliance with the requirements for environmental analysis under NEPA is impossible where emergency circumstances require immediate action to safeguard the public health. For such actions, the responsible official shall consult with the CEQ about alternative arrangements before the action is taken, or after the action is taken if time does not permit prior consultation with CEQ. OPDIVs/STAFFDIVs shall, in accordance with 40 CFR 1506.11, limit such arrangements to actions necessary to control the immediate impacts of the emergency. Other actions remain subject to NEPA review. An OPDIV/STAFFDIV shall document, including publishing a notice in the **Federal Register**, an emergency action covered by this paragraph within 30 days after such action occurs. The documentation shall identify any adverse impacts from the actions taken; any further mitigation that is necessary; and any NEPA documents that may be required.

I. *Monitoring.* As described in 40 CFR 1505.3, an OPDIVISTAFFDIV may provide for monitoring to ensure that its decisions, any mitigating measures, and other conditions are carried out.

30–50–65 Contents of an EIS

A. *Format.* The format used for an EIS shall encourage good analysis and clear presentation of the proposed action, alternatives to the proposed action, their environmental effects and, when there is an interrelationship between economic or social and natural or physical environmental effects, their economic, and social impacts. See 40 CFR 1508.14. The CEQ regulations (40 CFR part 1502) provide detailed requirements for the preparation of an EIS.

The following CEQ recommended standard format for EIS's (40 CFR 1502.10) shall be used unless the responsible official determines that there is a compelling reason to do otherwise:

1. Cover Sheet;
2. Summary;
3. Table of Contents;
4. Purpose of and need for action;
5. Alternatives including proposed action;
6. Affected environment;
7. Environmental consequences;
8. List of preparers;
9. List of agencies, organizations, and persons to whom copies of the EIS are sent;
10. Index; and
11. Appendices (if any).

If a different format is used, it shall include paragraphs 1–3, 8–10, and shall include the substance of paragraphs 4–7 and 11, in any appropriate format.

B. *Cultural or Natural Assets.* If a proposed action will also affect a cultural or natural asset, the EIS shall incorporate the material required by the applicable statute or Executive Order.

C. *Pollution Prevention.* Pollution prevention should be an important component of mitigation of the adverse impacts of a Federal action. To the extent practicable, pollution prevention considerations should be included in the proposed action and in the reasonable alternatives to the proposal, and should be addressed in the environmental consequences section of the EIS (40 CFR 1502.14(f), 1502.16(h), and 1508.20).

D. *Draft EIS.* Draft environmental impact statements shall be prepared in accordance with the scope decided upon in the scoping process and shall satisfy to the fullest extent possible the requirements established for final EISs. All substantive comments received during the comment period held as part of the public scoping process shall be considered in determining the scope of the EIS. The draft statement should discuss all major points of view on the environmental impacts of the alternatives, including the proposed action.

E. *Final EIS.* A final EIS shall be prepared following the public comment period and hearing on the draft EIS. The HHS organization's responses to comments shall be made in accordance with 40 CFR 1503.4. A final EIS shall contain any additional relevant

information gathered after the publication of the draft EIS, a copy of or a summary of oral and written comments received during the public review of the draft EIS, and the HHS organization's responses to the comments. Any responsible opposing view that was not adequately discussed in the draft statement shall be addressed in the final EIS. A final EIS shall also include any mitigation measures necessary to make the recommendation alternative environmentally acceptable and any findings required by Sections 30–40–40 or 30–40–70 in connection with floodplain or wetlands environmental reviews.

F. *Consideration of Comments on the Draft EIS.* Comments received on the draft EIS shall be carefully assessed and considered. The final EIS shall respond to oral and written comments received during public review of the draft EIS, as provided by 40 CFR 1503.4.

G. *Supplemental Statement.* OPDIVs/STAFFDIVs shall prepare supplements to either draft or final statements if there are substantial changes in the proposed action which are relevant to environmental concerns bearing on the proposed action, if significant new information becomes available, or new circumstances occur. Preparation and circulation of supplements is the same as that for draft and final EISs.

H. *Record of Decision.* When an OPDIV/STAFFDIV reaches a decision on a proposed action after preparing an EIS, the responsible official shall prepare a concise public record of decision which includes:

1. The decision;

2. All alternatives considered, specifying the alternative or alternatives which were considered to be environmentally preferable;

3. A discussion of factors which were involved in the decision, including any essential considerations of national policy which were balanced by the organization in making its decision and a statement of how those considerations entered into its decision;

4. A statement of whether all practicable means to avoid or minimize potential environmental harm from the alternative selected have been adopted, and if not, why they were not;

5. A description of mitigation measures that will be undertaken to make the selected alternative environmentally acceptable;

6. A discussion of the extent to which pollution prevention is included in the decision and how pollution prevention measures will be implemented; and

7. A summary of any monitoring and enforcement program adopted for any mitigation measures.

30–50–70 Public Involvement and Circulation of Environmental Impact Statements

A. *Public Notice.* The public has the opportunity to offer comments and otherwise participate in the NEPA process as set forth in 40 CFR 1506.6 from the time the decision is made to prepare an EIS. A Notice of Intent (30–50–55) to prepare an EIS is published in the **Federal Register** and serves as the first public notification that an EIS will be prepared. The scoping process (30–50–55), as announced in the Notice of Intent, allows the public, Indian tribes, Federal agencies, States, and local governments to participate in determining the issues to be considered in the EIS.

OPDIVs/STAFFDIVS shall make diligent efforts to involve the public in the environmental review process by providing public notice of NEPA-related hearings, public meetings, and the availability of environmental documents so as to inform those persons and agencies who may be interested or affected. The responsible official shall ensure that public notice is provided for in accordance with 40 CFR 1500.6 and 1506.6(b). Notice shall be made through direct mail, the **Federal Register,** local media, or other means appropriate to the scope, issues, and extent of public concern. In all cases, notice shall be given to those who have requested it on an individual action. Public notice shall include the name and location of a contact official through whom additional material may be obtained. EPA will publish in the **Federal Register** a Notice of Availability of HHS draft and final EISs.

OPDIVs/STAFFDIVs must give public notice in the following instances:

1. Prior to preparing a draft statement in order to solicit public participation; and

2. Prior to any public hearings.

B. *Public Hearings.* OPDIVs/STAFFDIVs shall hold public hearings as part of the NEPA environmental review process when hearings will assist substantially in forming environmental judgments. The hearings shall be conducted in a manner that is consistent with OPDIV/STAFFDIV program requirements. The responsible official shall conduct a public hearing on a draft EIS and shall ensure that the draft EIS is made available to the public and the hearing announced at least 15 days in advance of the hearing. The announcement shall identify the subject of the draft EIS and include the location, data, and time of the public hearing.

C. *Availability of Draft EIS.* Draft EISs will be prepared, forwarded to EPA for filing, and made available to the public early enough in the consideration of the proposed action to permit meaningful review of the environmental issues involved. A draft EIS will be sent to any party having an interest in the document, and will be available to the public upon request for the purpose of receiving substantive comment, corrections, and additional information on the issues covered by the statement. Copies of draft statements shall be provided to:

1. U.S. Environmental Protection Agency;

2. Council on Environmental Quality;

3. Other Federal agencies having related special expertise or jurisdiction by law;

4. Appropriate local and national organizations;

5. Appropriate State and local agencies, including those authorized to develop and enforce environmental standards;

6. Indian tribes, as appropriate, and

7. Others requesting a copy of the draft statement.

D. *Comments on Draft EIS.* After preparing a draft EIS and before preparing a final EIS, the responsible official shall obtain the comments of Federal agencies, Indian tribes, State and local government agencies, and the public in accordance with 40 CFR 1503.1. The responsible official shall respond to comments in the final EIS in accordance with 40 CFR 1503.4. There shall be a 45-day minimum comment period for a draft EIS after EPA publishes a Notice of Availability of the document in the **Federal Register** (40 CFR 1506.10(c)). Procedures for the preparation and circulation of a supplemental statement are contained in 30–50–65G.

E. *Proposed Rulemaking.* If the subject of a draft EIS is also the subject of a notice of proposed rulemaking, the **Federal Register** notice of proposed rulemaking will state that the draft EIS is available upon request, and will solicit comments from all interested persons.

F. *Final EIS.* Copies of final statements shall be provided in accordance with the list subsection C and to all agencies, persons, or organizations who submitted comments regarding the draft statement. Copies of each final EIS will be available upon request, and the responsible HHS organization will make copies of the final statement available for public inspection in public reading room(s).

G. *Record of Decision.* The responsible official shall publish the ROD in the **Federal Register** and disseminate the ROD to the public as

provided in 40 CFR 1506.6, except as provided in 40 CFR 1507.3(c).

30–50–75 Environmental Effects Abroad of Major Agency Actions

A. *Consideration of Environmental Effects.* In accordance with Executive Order 12114, Environmental Effects Abroad of Major Federal Actions, 44 FR 1957 (1979), 42 U.S.C. 4321 note, the responsible official shall consider the environmental effects abroad of a major action by the Department or one of its OPDIVs/STAFFDIVs, including whether the action involves:

1. Potential environmental effects on the global commons and areas outside the jurisdiction of any nation, *e.g.,* oceans, Antarctica, and the upper atmosphere;

2. Potential environmental effects on a foreign nation not participating with or otherwise involved with the United States and not otherwise involved in an HHS organization activity;

3. The export of products (or emissions or effluent) that in the United States are prohibited or strictly regulated because their effects on the environment create a serious public health risk; or

4. Potential environmental effects on natural and ecological resources of global importance designated under the Executive Order.

Before deciding on any action falling into the categories specified in subsection A of this section, the responsible official shall determine in accordance with Section 2–3 of the Executive Order whether such actions may have a significant environmental effect abroad.

B. *Type of Environmental Review.* If the responsible official determines that an action may have a significant environmental effect abroad, the responsible official shall determine in accordance with Section 2–4(a) and (b) of the Executive Order whether the subject action calls for:

1. An EIS;

2. A bilateral or multilateral environmental study; or

3. A concise environmental review.

C. *Preparation of Environmental Documents.* In preparing environmental documents under this section, the responsible official shall:

1. Determine, as provided in Section 2–5 of the Executive Order, whether proposed actions are subject to the exemptions, exclusions, and modification in contents, timing, and availability of documents; and

2. Coordinate all communications with foreign governments concerning environmental agreements and other arrangements in implementing the Executive Order.

30–50–80 Reviewing External Environmental Impact Statements

HHS has a responsibility under section 102(2)C of NEPA to review and comment on draft EISs developed by other Federal agencies. In accordance with 40 CFR 1503.2, HHS must comment on each EIS on issues for which it has ''jurisdiction by law or special expertise.''

A. *Jurisdiction by Law.* An OPDIV/STAFFDIV reviewing a draft EIS should review each alternative action discussed in an EIS in terms of the Departments statutory responsibilities. For example, the reviewer should examine:

1. Potential effects on the delivery or quality of health, social, or welfare services;

2. Potential effects associated with the manufacture, transportation, use, storage, and disposal of chemicals or other hazardous or radioactive materials;

3. Potential changes in plant or animal populations (This includes examination of the potential effects the proposed action may have on human health. Changes in natural predator populations may upset the ecological balance to the extent that an increased incidence of morbidity or mortality will occur unless offsetting safeguards are instituted); and

4. Potential changes in the physical environment that could affect human health or welfare (*e.g.,* air pollution, change in land use). (This shall also include an examination of the availability and quality of water, sewage, and solid waste disposal facilities.)

B. *Jurisdiction by Special Expertise.* Individuals reviewing EISs may comment, in addition, in areas beyond their immediate job responsibilities when they have special expertise which may be appropriate. For example, a veterinarian employed in a disease prevention program can comment on an EIS discussion about the effects of a forestry project on animal populations.

C. *Types of Comments.* Comments on an EIS or on a proposed action shall be as specific as possible and may address either the adequacy of the statement or the merits of the alternatives discussed or both. A reviewer's comment on an external EIS can address one or more of the following:

1. That data are missing or inaccurate;

2. That the organization of the EIS precludes a valid review;

3. That the projections or descriptions of effects are not complete or are inaccurate;

4. That the reviewer does not concur with the projections (stating reasons);

5. That certain safeguards will lessen the extent of an effect or the magnitude of an impact;

6. A preference for an action alternative (or no action); or

7. An objection to a federal agency's preferred alternative (if one is identified in the draft EIS) and recommend adoption of new or existing alternatives.

Objections to a federal agency's alternative should be lodged on the basis of the direct or indirect effects on HHS programs or mission. When an objection or reservation about the proposal is made on grounds of environmental impacts, an OPDIV/STAFFDIV shall specify the mitigation measures it considers necessary to allow it to grant or approve applicable permit, license, or related requirements or concurrences (40 CFR 1503.3).

If a lead federal agency's predictive methodology is criticized, the OPDIV/STAFFDIV should describe the alternative methodology which it prefers and the rationale for its preference. An OPDIV/STAFFDIV shall specify in its comments whether it needs additional information to fulfill other applicable environmental reviews or consultation requirements and what information it needs. In particular, an OPDIV/STAFFDIV shall specify any additional information it needs to comment adequately on the draft statements analysis of significant site-specific effects associated with the granting or approving of necessary Federal permits, licenses, or entitlements.

D. *Resolution of Comments.* If an OPDIV/STAFFDIV objects to all or part of a Federal agency's proposed action and, after consultation with the agency, is unable to resolve its differences, it shall determine if the proposed action meets the criteria for referral in 40 CFR 1504.2. If the criteria are met, the OPDIV/STAFFDIV head shall refer the objection to CEQ within 25 days of the date that the final EIS is made available to EPA in accordance with 40 CFR 1504.3.

Subject: Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) Requirements

30–60–00 Background
30–60–05 Applicability
30–60–10 Responsibilities
30–60–20 Emergency Planning
30–60–30 Notification of Release of Extremely Hazardous Substance
30–60–40 Material Safety Data Sheet Reporting
30–60–50 Emergency and Hazardous Chemical Inventory Reporting
30–60–60 Treatment of Mixtures in MSDS

30–60–00 Background

EPCRA was enacted in 1986 as Title III of the Superfund Amendments and Reauthorization Act (SARA), Pub. L. No. 99–499, 100 Stat. 1729 (codified at 42 U.S.C. 11001–11050 (1988)). Although they are sometimes connected by their emergency notification and reporting requirements, EPCRA is a separate act from the ''Superfund'' law or, as it is officially titled, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA).

EPCRA's provisions form two primary programs: (1) emergency planning, and (2) community right-to-know. EPCRA establishes a mechanism for providing the public with important information on the hazardous and toxic chemicals in their communities, and it creates emergency planning and notification requirements to protect the public in the event of a release of extremely hazardous substances. The law requires local communities to prepare plans for dealing with emergencies relating to the release of extremely hazardous substances from facilities within those communities. EPCRA also provides the public and local and state governments with the right to obtain information concerning the types, amount, location, storage, use, disposition, and possible health effects from the release of hazardous and extremely hazardous substances from facilities that are in their communities.

Facilities that are subject to EPCRA are required to provide information and reports to EPA and state and local groups. Five distinct reporting requirements are contained in EPCRA:

1. Emergency planning (30–60–20);
2. Notification of release (30–60–30);
3. Material safety data sheet submission (30–60–40);
4. Emergency and hazardous chemical inventory reporting (30–60–50), and
5. Toxic chemical release reports (30–60–70).

Each of these reporting requirements and other facility responsibilities are described in the following sections.

30–60–05 Applicability

A. *Executive Order 12856.* EPCRA applies to ''persons''. The term ''person'' is defined in the act to include individuals, partnerships, corporations, states, and municipalities. The definition does not cover most United States government agencies. EPCRA is made applicable to federal agencies by Executive Order 12856. E.O. 12856 incorporates by reference all definitions found in EPCRA and EPA implementing regulations, except that it modifies the term ''person'' to include Federal executive agencies as defined in 5 U.S.C. 105 (1988). Executive agencies are Executive Departments, government corporations, and independent establishments of the United States. HHS is an executive Department and is subject to EPCRA because of Executive Order 12856.

B. *Agency Facilities.* Executive Order 12856 provides that EPCRA applies to all Federal executive agencies that either own or operate a ''facility'' as that term is defined in EPCRA, if such facility meets the statute's threshold requirements for compliance. The statutory definition of facility is:

> All buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person (or by any person which controls, is controlled by, or under common control with, such person). For purposes of [emergency release notification], the term includes motor vehicles, rolling stock, and aircraft (42 U.S.C. 11049(4)).

EPA regulations revise the statutory definition of facility to include ''manmade structures in which chemicals are purposefully placed or removed through human means such that it functions as a containment structure for human use.'' (40 CFR 355.20, 370.2). The purpose of the revision was to clarify that the definition applies to certain subsurface structures.

C. *Covered Facilities.* Each Federal agency must apply all of the provisions of Executive Order 12856 to each of its covered facilities, including those facilities which are subject, independent of the Executive order, to the provisions of EPCRA (*e.g.,* certain Government-owned/contractor-operated facilities (GOCO's) for chemicals meeting EPCRA thresholds). Executive Order 12856 does not apply to Federal agency facilities outside the customs territory of the United States, such as United States diplomatic and consular missions abroad. EPA may be consulted to determine the applicability of Executive Order 12586 to particular OPDIV/STAFFDIV facilities.

D. *Preliminary List of Covered Facilities.* The Secretary was required by Executive Order 12856 to provide the EPA Administrator by December 31, 1993, with a preliminary list of facilities that potentially meet the requirements for reporting under the threshold provisions of EPCRA.

30–60–10 Responsibilities

A. *HHS.* Executive Order 12856 makes the Secretary responsible for ensuring HHS compliance with emergency planning and community right-to-know provisions established pursuant to all implementing regulations issued pursuant to EPCRA. The Order requires Federal agencies to report in a public manner toxic chemicals entering any waste stream from their facilities, including any releases to the environment, and to improve local emergency planning, response, and accident notification. The objective of Executive Order 12856 is to make the Federal Government a good neighbor to local communities by becoming a leader in providing information to the public concerning toxic and hazardous chemicals and extremely hazardous substances at Federal facilities, and in planning for and preventing harm to the public through the planned or unplanned releases of chemicals.

B. *OPDIVs/STAFFDIVs.* The head of each OPDIV/STAFFDIV is responsible for compliance with the provisions of EPCRA as described in this chapter and Executive Order 12856. An OPDIV/STAFFDIV must comply with provisions set forth in sections 301 through 312 of EPCRA, all implementing regulations, and future amendments to these authorities, in light of any applicable guidance as provided by EPA. Dates for compliance with individual sections of EPCRA vary and are set forth in the appropriate sections below. Executive Order 12856 provides that the compliance dates are not intended to delay implementation of earlier timetables already agreed to by Federal agencies and are inapplicable to the extent they interfere with those timetables. Compliance with EPCRA means compliance with the same substantive, procedural, and other statutory and regulatory requirements that would apply to a private person.

C. *Agency Contractors.* Executive Order 12856 requires each Federal agency to provide, in all appropriate future contracts, for the contractor to supply all information the Federal agency deems necessary for it to comply with the order. To the extent that compliance with the Executive Order is made more difficult due to lack of information from existing contractors, OPDIVs/STAFFDIVs must take practical steps to obtain the information needed to comply with the Executive Order from such contractors. Nothing in Executive Order 12856 alters the

obligations which GOCO's and Government corporation facilities have under EPCRA independent of the Executive Order or subjects such facilities to EPCRA if they are otherwise excluded. However, each OPDIV/STAFFDIV shall include the releases and transfers from all such facilities when meeting all of the organization's responsibilities under Executive Order 12856.

30–60–20 Emergency Planning (EPCRA Sections 301–30; 42 U.S.C. 11001–30)

A. *Basic Requirement.* Facilities that are covered by EPCRA must notify the State emergency response commission that they are subject to the Act's emergency planning provisions. A local emergency planning committee, comprised of state and local officials, community organizations, and facility representatives, must prepare an emergency plan for responding to the release of extremely hazardous substances in the local community. A covered facility must provide any information that is necessary for developing the local emergency plan. The facility must also notify the local committee of relevant changes at the facility that may affect the emergency plan and designate an emergency planning coordinator who will participate in the emergency planning process. EPA regulations governing emergency planning and notification under EPCRA are contained in 40 CFR part 355.

B. *Applicability of Requirement.* A facility is subject to the EPCRA emergency planning requirements if an amount of any extremely hazardous substance equal to or in excess of the threshold planning quantity (TPQ) established for that substance is present at the facility. An ''amount of any extremely hazardous substance'' means the total amount of an extremely hazardous substance present at any one time at a facility at concentrations greater than one percent by weight, regardless of location, number of containers, or method of storage.

E.O. 12856 makes the EPCRA emergency planning requirements in Sections 302 and 303 of the Act applicable to Federal agencies. A Governor or a State commission may designate additional facilities in the State which shall be subject to the EPCRA emergency planning requirements. The authority of a Governor or a State commission to designate additional facilities does not extend to Federal executive agencies (except government corporations).

C. *Extremely Hazardous Substances and Threshold Planning Quantities.* An ''extremely hazardous substance'' is defined in EPA regulations to mean a substance that is listed in Appendices A (in alphabetical order) and B (by CAS number) of 40 CFR part 355. The Appendices contain tables which indicate the threshold planning quantity (TPQ) for each extremely hazardous substance.

EPCRA authorizes EPA to modify the list and TPQ of extremely hazardous substances from time to time based on the toxicity, reactivity, volatility, dispersability, combustibility, and flammability of a substance. Because extremely hazardous substances are periodically removed or added to the list, and threshold quantities may be revised, facilities must be sure that the list of extremely hazardous substances they consult is current. EPA regulations in 40 CFR 355.30(e) (1992) set forth the rules and techniques for calculating the TPQ of extremely hazardous substances that are solids or present in mixtures, solutions, and molten materials.

D. *State and Local Planning Groups.* EPCRA requires the Governor of each State or Chief Executive Officer of an Indian Tribe to appoint an Emergency Response Commission (''commission''). The commission must designate emergency planning districts in order to facilitate preparation and implementation of an emergency plan. The commission must also appoint local emergency planning committees (''committee'') in each emergency planning district and supervise and coordinate the activities of such committees.

Local committees include, at a minimum, representatives from each of the following groups or organizations: elected State and local officials; law enforcement, civil defense, firefighting, first aid, health, local environmental, hospital, and transportation personnel; broadcast and print media; community groups; and owners and operators of facilities subject to EPCRA.

E. *Local Emergency Plan.* Each local emergency planning committee was to have completed preparation of a local emergency plan no later than October 17, 1988. The committee must review such plan once a year, or more frequently as changed circumstances in the community or at any facility may require. The rules of the committee must include provisions for public notification of committee activities, public meetings to discuss the emergency plan developed by the committee, public comments on the emergency plan and response to such comments by the committee, and distribution of the emergency plan. EPCRA requires that each local emergency plan prepared by a local committee shall include (but is not limited to) each of the following:

1. Identification of facilities subject to the EPCRA's requirements that are within the emergency planning district, identification of routes likely to be used for the transportation of substances on the list of extremely hazardous substances, and identification of additional facilities contributing or subjected to additional risk due to their proximity to facilities subject to EPCRA requirements, such as hospitals or natural gas facilities;

2. Methods and procedures to be followed by facility owners and operators and local emergency and medical personnel to respond to any release of such substances;

3. Designation of a community emergency coordinator and facility emergency coordinators, who shall make determinations necessary to implement the plan;

4. Procedures providing reliable, effective, and timely notification by the facility emergency coordinators and the community emergency coordinator to persons designated in the emergency plan, and to the public, that a release has occurred (consistent with the emergency notification requirements of EPCRA Section 11004);

5. Methods for determining the occurrence of a release, and the area or population likely to be affected by such release;

6. A description of emergency equipment and facilities in the community and at each facility in the community subject to EPCRA requirements, and an identification of the persons responsible for such equipment and facilities;

7. Evacuation plans, including provisions for a precautionary evacuation and alternative traffic routes;

8. Training programs, including schedules for training of local emergency response and medical personnel; and

9. Methods and schedules for exercising the emergency plan.

F. *Review of Emergency Plans.* After completion of an emergency plan for an emergency planning district, the local emergency planning committee must submit a copy of the plan to the State emergency response commission of each State in which such district is located. The commission must review the plan and make recommendations to the committee on revisions of the plan that may be necessary to ensure coordination of such plan with emergency response

plans of other emergency planning districts.

Regional response teams, as established pursuant to CERCLA's National Contingency Plan (42 U.S.C. 9605), may review and comment upon an emergency plan or other issues related to preparation, implementation, or exercise of such a plan upon request of a local emergency planning committee. Such review may not delay implementation of the plan. The national response team must publish guidance documents for preparation and implementation of emergency plans.

G. *Emergency Planning Notification.* Each covered facility shall notify the commission for the state in which the facility is located that the facility is subject to EPCRA emergency planning requirements.

Thereafter, if a substance on the list of extremely hazardous substances first becomes present at the facility in excess of the TPQ established for such substance, or if there is a revision of the list of extremely hazardous substances and the facility has present a substance on the revised list in excess of the TPQ established for such substance, the covered facility shall notify the state emergency response commission and the local emergency planning committee within 60 days after such acquisition or revision that the facility is subject to the EPCRA emergency planning requirements. (EPCRA, 302(c)).

H. *Facility Emergency Response Coordinator.* A facility representative shall be designated for each facility who will participate in the local emergency planning process as a facility emergency response coordinator. The name of the facility emergency response coordinator shall be provided to the local emergency planning committee of the State (or the Governor if there is no committee) in which the facility is located.

I. *Provision of Information and Technical Assistance.*

1. *Provision of Information.* Upon request of the local committee, the facility must promptly provide to the committee any information necessary for development or implementation of the local emergency plan. Executive Order 12856 provides that all information necessary for the applicable local committee to prepare or revise the local emergency plan must also be provided. A covered facility shall inform the local emergency planning committee of any changes occurring at the facility which may be relevant to emergency planning.

EPCRA section 322 (42 U.S.C. 11042) provides for the withholding of certain trade secret information, provided the claim of trade secrecy is substantiated in accordance with EPA regulations. Withholding and disclosure of trade secret information is discussed in section 30–60–80.

2. *Technical Assistance.* OPDIVs/STAFFDIVs, to the extent practicable, shall provide technical assistance, if requested, to local emergency planning committees in the development of emergency plans and in fulfillment of their community right-to-know and risk reduction responsibilities.

30–60–30 Notification of Release of Extremely Hazardous Substance (EPCRA Section 304; 42 U.S.C. 11004)

A. *Basic Requirement.* A facility must immediately notify the local committee for any area likely to be affected, and the commission of any state likely to be affected, or off-site spills or any releases from the facility of a ''reportable quantity'' (RQ) of an EPCRA ''extremely hazardous substance'' or a CERCLA ''hazardous substance''. The initial report must be made by such means as telephone, radio, or in person. A follow-up written report must be furnished to the committee and commission. EPA regulations governing notification of release of an extremely hazardous substance are contained in 40 CFR Part 355.

B. *Applicability.* The EPCRA emergency release notification requirements apply to any facility:

1. At which a hazardous chemical is produced, used, or stored; and

2. At which there is release of a reportable quantity of any extremely hazardous substance or CERCLA hazardous substance.

Executive Order 12856 provides that the release notification requirements in EPCRA section 304 (42 U.S.C. 11004) shall be effective beginning January 1, 1994.

OPDIVs/STAFFDIVs should be aware that the release notification requirements of EPCRA section 304 covers more facilities than the emergency planning requirements of EPCRA sections 301–303. An OPDIV/STAFFDIV facility must notify the local emergency planning committee of a release under section 304 even if a section 302(b) ''threshold planning quantity'' of a substance is not present. Furthermore, section 304 is the only section of EPCRA that applies to ''transportation facilities.''

C. *Reportable Quantities.* EPA regulations in 40 CFR part 355 establish the list of extremely hazardous substances, threshold planning quantities, and facility notification responsibilities necessary for the development and implementation of state and local emergency response plans. The reportable quantities for extremely hazardous substances are set out in 40 CFR part 355, Appendices A (alphabetical order) and B (by CAS number).

D. *CERCLA Release Reporting.* The EPCRA notification of release requirements are in addition to the release reporting requirements imposed by CERCLA section 103(42 U.S.C. 9603). Under CERCLA section 103(a), the person in charge of a vessel or facility from which a hazardous substance has been released in a quantity that equals or exceeds its reportable quantity must immediately notify the National Response Center of the release. The purpose of the CERCLA notification requirement is to inform the government of a release so that Federal personnel can evaluate the need for a Federal removal or remedial action and undertake any necessary action in a timely manner. Under section 104 of CERCLA, the Federal government may respond whenever there is a release or substantial threat of a release of a hazardous substance into the environment. Response activities are to be taken, to the extent practicable, accordance with the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR part 300).

Releases of CERCLA hazardous substances are subject to the release reporting requirements that are codified at 40 CFR part 302. The list of CERCLA hazardous substances and their reportable quantities is found at 40 CFR 302.4. The National Response Center telephone number for release reporting is (800) 424–8802.

Note: Currently, only releases of those extremely hazardous substances that are also CERCLA hazardous substances are required to be reported to the National Response Center under CERCLA section 103. Discrepancies exist between the substances on the list of EPCRA extremely hazardous substances and those on the list of CERCLA hazardous substances. Moreover, the reportable quantity of the same substance may differ between lists. EPA has published a proposed rule to designate 226 non-CERCLA extremely hazardous substances as CERCLA hazardous substances (54 FR 3388 (1989). The purpose of the proposed rule is to eliminate potential confusion concerning the different EPCRA (notification to state and local officials only) and CERCLA (notification to the National Response Center in addition to notification to state and local officials) requirements. EPA has also published a proposed rule to adjust the reportable quantities for 225 substances on the EPCRA extremely hazardous substances list, which EPA has proposed for designation as CERCLA hazardous substances, and 19 substances that are CERCLA hazardous substances (54 FR 35988 (1989)).

E. *Comparison of EPCRA and CERCLA Release Reporting Requirements.* Table 1 indicates the differences in reporting a release of a reportable quantity of a CERCLA hazardous substance or an EPCRA extremely hazardous substance.

Note: A petroleum release that contains a reportable quantity of an extremely hazardous substance as a constituent is exempt under CERCLA but not under EPCRA section 304. The petroleum exclusion under CERCLA does not apply to EPCRA (52 FR 13378, 13385 (1987)).

TABLE 1. COMPARISON OF CERCLA AND EPCRA RELEASE NOTIFICATION REQUIREMENTS

Reporting requirement	Substance only on CERCLA list of hazardous substances (40 CFR § 302.4)	Substance only on EPCRA list of extremely hazardous substances (40 CFR Part 355, Appx A & B)	Substance on CERCLA and EPCRA lists
Notify State and Local Officials	Yes	Yes (unless release results in exposure only to persons solely within the boundaries of the facility).	Yes
Notify National Response Center	Yes	No	Yes
Does the petroleum exclusion apply?	Yes	No	Yes—CERCLA Report; No—EPCRA Report

F. *Notice Requirements.* A facility shall immediately notify the community emergency coordinator for the local emergency planning committee of any area likely to be affected by the release and the state emergency response commission of any state likely to be affected by the release. If there is no local emergency planning committee, notification shall be provided to relevant local emergency response personnel.

Emergency release notice requirements for a transportation-related release may be satisfied by providing the information indicated in subsection G. *Notice Contents* by telephone to the 911 operator, or in the absence of a 911 emergency telephone number, to the operator. A ''transportation-related release'' means a release during transportation, or storage incident to transportation if the stored substance is moving under active shipping papers and has not reached the ultimate consignee.

G. *Notice Contents.* The emergency release notice shall include the following to the extent known at the time of notice and so long as no delay in notice or emergency response results:

1. The chemical name or identity of any substance involved in the release.

2. An indication of whether the substance is an extremely hazardous substance.

3. An estimate of the quantity of any such substance that was released into the environment.

4. The time and duration of the release.

5. The medium or media into which the release occurred.

6. Any known or anticipated acute or chronic health risks associated with the emergency and, where appropriate, advice regarding medical attention necessary for exposed individuals.

7. Proper precautions to take as a result of the release, including evacuation (unless such information is readily available to the community emergency coordinator pursuant to the emergency plan).

8. The names and telephone number of the person or persons to be contacted for further information.

H. *Following Emergency Notice.* As soon as practicable after a release which requires notice under subsection F. *Notice Requirements,* a written follow-up emergency notice (or notices, as more information becomes available) setting forth and updating the information required in subsection G. *Notice Contents* and including additional information with respect to:

1. Actions taken to respond to and contain the release;

2. Any known or anticipated acute or chronic health risks associated with the release; and

3. Where appropriate, advice regarding medical attention necessary for exposed individuals.

I. *Transportation Exemption Not Applicable.* EPCRA generally exempts from its requirements the transportation, including the storage incident to such transportation, of any substance or chemical subject to EPCRA. This transportation exemption does not apply to this section (30–60–30) or EPCRA's requirements for notification of the release of an extremely hazardous substance (EPCRA section 304; 42 U.S.C. 11004).

Refer to subsection F. *Notice Requirements* for requirements pertaining to transportation-related releases.

J. *Exempted Releases.* The notification requirements of this section (30–60–30) do not apply to:

1. Any release which results in exposure to persons solely within the boundaries of the facility (note: CERCLA does not contain a similar exemption);

2. Any release which is a ''Federally permitted release'' as defined in section 101 (10) of CERCLA (42 U.S.C. 9601 (10));

3. Any release that is continuous and stable in quantity and rate under the definitions in 40 CFR 302.8(b).* Exemption from notification under this subsection does not include exemption from:

(a) Initial telephone or written notifications of a continuous release as defined in 40 CFR 302.8(d) and (e);

(b) Notification of a ''statistically significant increase,'' defined in 40 CFR 302.8(b) as any increase above the upper bound of the reported normal range, which is to be submitted to the community emergency coordinator for the local emergency planning committee for any area likely to be affected by the release and to the State emergency response commission of any State likely to be affected by the release;

(c) Notification of a ''new release'', defined in 40 CFR 302.8(g)(1) as any change in the composition or source(s) of the release; or

(d) Notification of a change in the normal range of the release as required under 40 CFR 302.8(g)(2).**

*The referenced definitions that apply to the notification of a continuous release state: ''A continuous release is a release that occurs without interruption or abatement or that is routine, anticipated, and intermittent and incidental to normal operations or treatment processes. * * * A routine release is a release that occurs during normal operating procedures or processes. * * * A release that is stable in quantity and rate is a release that is predictable and regular in amount and rate of emission.'' (40 CFR 302.8(b)).

**''The normal range of a release is all releases (in pounds or kilograms) of a hazardous substance reported or occurring over any 24-hour period under normal operating conditions during the preceding year. Only releases that are both

Continued

4. Any release of a pesticide product exempt from CERCLA section 103(a) (42 U.S.C. 9603(a)) reporting under CERCLA section 103(e) (42 U.S.C. 9603(e)) (CERCLA exempts from its notification requirements the application of a pesticide product registered under FIFRA or the handling and storage of such a pesticide product by an agricultural producer);

5. Any release not meeting the definition of release under section 101 (22) of CERCLA (42 U.S.C. 9601(22)), and therefore exempt from CERCLA section 103(a) reporting (42 U.S.C. 9603(a)) (*e.g.,* engine exhaust emissions, certain nuclear material releases, the normal application of fertilizer); and

6. Any radionuclide release which occurs:

(a) Naturally in soil from land holdings such as parks, golf courses, or other large tracts of land;

(b) Naturally from the disturbance of land for purposes other than mining, such as for agricultural or construction activities;

(c) From the dumping of coal and coal ash at utility and industrial facilities with coal-fired boilers; and

(d) From coal and coal ash piles at utility and industrial facilities with coal-fired boilers.

30–60–40 Material Safety Data Sheet Reporting (EPCRA 311; 42 U.S.C. 11021)

A. *Basic Requirement.* A material safety data sheet (MSDS) or a list of hazardous chemicals shall be provided to the local emergency planning committee, the State emergency planning commission, and the fire department with jurisdiction over the facility for each hazardous chemical present at the facility according to the minimum threshold schedule provided in 40 CFR 370.20(b) (see subsection D. *Minimum Thresholds for Reporting).* An MSDS must include such information as the hazardous chemical's common and chemical names, physical and chemical characteristics, physical and health hazards, primary routes of entry, exposure limits, possible carcinogenic effects, safe handling and use precautions, control measures, and emergency and first aid procedures. (29 CFR 1910.1200(g)(2)). EPA regulations governing MSDS reporting are contained in 40 CFR part 370.

Note: Requirements for the reporting of mixtures is contained in section 30–60–60.

B. *Applicability.* The requirement in section 311 of EPCRA to submit a MSDS or list of hazardous chemicals applies to each facility that is required to prepare or have available a MSDS for a hazardous chemical under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 *et seq.*) and regulations promulgated under that Act (see 29 CFR 1910.1200(g)). The Act requires a facility to have a MSDS for each hazardous chemical it uses, produces, or imports (29 CFR 1910.1200(g)(1)).

C. *Alternative Reporting.* In lieu of the submission of an MSDS for each hazardous chemical, the following may be submitted:

1. A list of the hazardous chemicals for which an MSDS is required, grouped by hazard category as defined by 40 CFR 370.2 (*e.g.,* ''immediate (acute) health hazard'' or ''delayed (chronic) health hazard'');

2. The chemical or common name of each hazardous chemical as provided on the MSDS; and

3. Except for reporting of mixtures under 40 CFR 370.28(a)(2) (see section 30–60–60, subsection A.2.), any hazardous component of each hazardous chemical as provided on the MSDS.

D. *Minimum Threshold Levels for MSDS Reporting.* Except in response to certain requests for submission of an MSDS, an MSDS shall be submitted:

1. For all hazardous chemicals present at the facility at any one time in amounts equal to or greater than 10,000 pounds (or 4,540 kgs.); and

2. For all extremely hazardous substances present at the facility in an amount greater than or equal to 500 pounds (or 227 kgs. approximately 55 gallons) or the TPQ, whichever is lower.

The minimum threshold for reporting in response to a request for submission of an MSDS by a local emergency planning committee (see subsection H. *Submission of MSDS Upon Committee Request)* shall be zero.

E. *Definition of ''Hazardous Chemical''.* The term ''hazardous chemical'', as defined in 29 CFR 1910.1200(c), means any chemical which is a physical hazard or a health hazard, except that such term does not include the following substances:

1. Any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration;

2. Any substance present as a solid in any manufactured item to the extent exposure to the substance does not occur under normal conditions of use;

3. Any substance to the extent it is used for personal, family, or household purposes, or is present in the same form and concentration as a product packaged for distribution and use by the general public;

4. Any substance to the extent it is used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual; and

5. Any substance to the extent it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate customer.

Note: The definition of ''hazardous chemical'' in this section (30–60–40) is broader than ''hazardous substance'' under CERCLA or ''extremely hazardous substance'' under EPCRA (see sections 30–60–20, 30–60–30).

F. *Reporting Period.* Executive Order 12856 provides that to the extent that a facility is required to maintain MSDSs under any provisions of law or Executive order, information required under section 311 of EPCRA shall be submitted no later than August 3, 1994. Thereafter, a facility shall submit an MSDS for a hazardous chemical or a list within three months after a hazardous chemical requiring an MSDS becomes present in an amount exceeding the threshold established in 40 CFR 370.20(b) (see subsection D. *Minimum Threshold Levels for Reporting).*

G. *Supplemental Reporting.* A revised MSDS shall be provided to the local emergency planning committee, the State emergency planning commission, and the fire department with jurisdiction over the facility within three months after discovery of significant new information concerning the hazardous chemical for which the MSDS was submitted.

H. *Submission of MSDS Upon Committee Request.* A facility that has not submitted the MSDS for a hazardous chemical present at the facility shall submit the MSDS for any such hazardous chemical to the local emergency planning committee upon its request. The MSDS shall be submitted within 30 days of the receipt of such request. The minimum threshold for reporting in response to a request for submission of an MSDS by a local committee shall be zero.

I. *Public Request for MSDS Information.* EPA regulations permit any person to obtain an MSDS with respect to a specific facility by submitting a written request to the local emergency planning committee. If the committee does not have the MSDS in its possession, the EPA regulations authorize the committee to request a submission of the MSDS from the owner or operator of the facility that is the subject of the request and make the sheet available to the requester.

J. *Withholding of Trade Secret Information.* EPCRA section 322 (42 U.S.C. 11042) provides that any person

---

continuous and stable in quantity and rate may be included in the normal range.'' (40 CFR 302.8(b)).

may withhold from the submittal of an MSDS the specific chemical identity (including the chemical name and other specific identification) of a hazardous chemical when such information is a trade secret and the claim of trade secrecy is substantiated in accordance with EPA regulations. Withholding and disclosure of trade secret information is discussed in section 30–60–80.

30–60–50 Emergency and Hazardous Chemical Inventory Reporting (EPCRA 312; 42 U.S.C. 1022)

A. *Basic Requirement.* A facility shall submit annually an Emergency and Hazardous Chemical Inventory Reporting Inventory Form (Tier I form) to the local emergency planning committee, the State emergency response commission, and the fire department with jurisdiction over the facility for hazardous chemicals present at the facility during the preceding calendar year that are above the minimum threshold levels established for those chemicals (see subsection D. *Minimum Threshold Levels for Tier I or Tier II Form Reporting).* The Tier I form provides aggregate information on the categories, amounts, and general location of the hazardous chemicals at the facility. EPA regulations governing annual inventory reporting are contained in 40 CFR part 360.

Note: Requirements for the reporting of mixtures is contained in section 30–60–60.

B. *Alternative Reporting.* With respect to any specific hazardous chemical at the facility, a Tier II form (see subsection G. *Contents of Tier II Form)* may be submitted in lieu of the Tier I information.

C. *Applicability of the Requirement.* The requirement in section 312 of EPCRA to submit an emergency and hazardous chemical inventory form applies to each facility that is required to prepare or have available an MSDS for a hazardous chemical under OSHA and regulations promulgated under that Act. OSHA requires facilities that use, distribute, produce, or import chemicals to have a material safety data sheet for each hazardous chemical which they use (29 CFR 1910.1200(g)(1)).

D. *Minimum Threshold Levels for Tier I or Tier II Form Reporting.* Except in response to certain requests for submission of a Tier II form, a Tier I (or Tier II) form shall be submitted covering:

1. All hazardous chemicals present at the facility at any one time during the preceding calendar year in amounts equal to or greater than 10,000 pounds (or 4,540 kgs.); and

2. Extremely hazardous substances present at the facility in an amount greater than or equal to 500 pounds (or 227 kgs.—approximately 55 gallons) or the TPQ, whichever is lower.

The minimum threshold for reporting in response to a request for submission of a Tier II form by a State emergency response commission, local emergency planning committee, or fire department having jurisdiction over the facility (see subsection H. *Submission of Tier II Information to State Commissions, Local Committees, or Fire Departments)* shall be zero.

E. *Annual Reporting Period.* An inventory form containing Tier I (or Tier II) information on hazardous chemicals present at the facility during the preceding calendar year above the threshold levels established in 40 CFR 370.20(b) (see subsection D. *Minimum Threshold Levels for Tier I or Tier II Form Reporting* shall be submitted on or before March 1 each year. Executive Order 12856 provides that the first year of compliance with this reporting requirement for federal agencies shall be no later than the 1994 calendar year, with reports due on or before March 1, 1995.

F. *Content of Tier I Form.* The Tier I Emergency and Hazardous Chemical Inventory Form (with instructions) is set out in 40 CFR 370.40(b). In lieu of the form, a facility may submit a State or local form that contains identical content. The Tier I Inventory Form requires a facility to provide the following information in aggregate terms for hazardous chemicals in categories of health and physical hazards as set forth under OSHA and regulations promulgated under that Act.

1. An estimate (in ranges) of the maximum amount of hazardous chemicals in each category present at the facility at any time during the preceding calendar year.

2. An estimate (in ranges) of the average daily amount of hazardous chemicals in each category present at the facility during the preceding calendar year.

3. The general location of hazardous chemicals in each category.

The EPA regulations consolidate 23 hazard categories defined in the OSHA Hazard Communication Standard, 29 CFR 1910.1200, into two health hazard and three physical hazard categories. The five Tier I Form hazard categories are: fire hazards; sudden release of pressure hazards; reactivity hazards; immediate (acute) health hazards; and delayed (chronic) health hazards.

G. *Contents of Tier II* Form. Tier II Emergency and Hazardous Chemical Inventory Forms (with instructions) is set out in 40 CFR 370.41(b). In lieu of the form contained in the EPA regulations, a facility may submit a state or local form that contains identical content. The Tier II Inventory Form requires the following additional information for each hazardous chemical present at the facility:

1. The chemical name or the common name of the chemical as provided on the MSDS.

2. An estimate (in ranges) of the maximum amount of the hazardous chemical present at the facility at any time during the preceding calendar year.

3. An estimate (in ranges) of the average daily amount of the hazardous chemical present at the facility during the preceding calendar year.

4. A brief description of the manner of storage of the hazardous chemical.

5. The location at the facility of the hazardous chemical.

6. An indication of whether the facility elects to withhold information regarding the location of the hazardous chemical from disclosure to the public under 42 U.S.C. 11044 (see subsection L. *Withholding Certain Information From Public Disclosure.*

H. *Submission of Tier II information to State Commissioners, Local Committees, or Fire Departments.* Upon request by a State emergency response commission, a local emergency planning committee, or a fire department with jurisdiction over the facility, a facility shall provide Tier II information to the person making the request. Any such request shall be with respect to a specific facility. The Tier II Form shall be submitted within 30 days of the receipt of each request. The minimum threshold for reporting in response to a request for submission of a Tier II form by a State commission, local committee, or fire department shall be zero.

I. *Availability of Tier II Information to Other State and Local Officials.* A State or local official acting in his or her official capacity may have access to Tier II information by submitting a request to the State emergency response commission or the local emergency planning committee. Upon receipt of a request for Tier II information, the State commission or local committee is authorized by EPA regulations to request the facility for the Tier II information and make available such information to the official.

J. *Availability of Tier II Information to General Public.* Any person may request Tier II information with respect to a specific facility by submitting a written request to the State commission or local committee in accordance with EPA requirements in 40 CFR 370.30(b). If the

committee or commission does not have the Tier II information in its possession, EPA regulations authorize it to request a submission of the Tier II form from the facility that is the subject of the request, provided that the request is limited to hazardous chemicals stored at the facility in an amount in excess of 10,000 pounds. If the request is for Tier II information on chemicals present at a facility in an amount less than 10,000 pounds, the requestor must include a general statement of need in the request. The location of any chemical shall be withheld by the State commission or local committee upon request of the facility (see subsection L. *Withholding Certain Information From Public Disclosure).*

EPCRA requires a State commission or local committee to respond to a request for Tier II information no later than 45 days after the date of receipt of the request.

K. *Fire Department Inspection.* A facility that has submitted an inventory form shall allow on-site inspection by the fire department having jurisdiction over the facility upon request of the department, and shall provide to the department specific location information on hazardous chemicals at the facility.

L. *Withholding Certain Information From Public Disclosure.*

1. *Physical Location of Hazardous Chemical.* All information obtained from a facility in response to a public request to a State commission or local committee for a Tier II form must be made available to the person submitting the request, provided, upon request of the facility, the commission or committee shall withhold from disclosure the location of any specific chemical identified in the Tier II form.

2. *Trade Secret Information.* EPCRA section 322(42 U.S.C. 11042) provides that any person may withhold from a submittal of an emergency and hazardous chemical inventory reporting form the specific chemical identify (including the chemical name and other specific identification) of a hazardous chemical when such information is a trade secret and the claim of trade secrecy is substantiated in accordance with EPA regulations. Withholding and disclosure of trade secret information is discussed in section 30–60–80.

30–60–60 Treatment of Mixtures in MSDS and Inventory Reporting

A. *Basic Reporting.* A facility may meet the MSDS reporting requirements of 40 CFR 370.21 (see 30–60–40) and the inventory reporting requirements of 40 CFR 370.25 (see 30–60–50) for a hazardous chemical that is a mixture of hazardous chemicals by:

1. Providing the required information on each component in the mixture which is a hazardous chemical*; or

2. Providing the required information on the mixture itself.

***Note:** If more than one mixture has the same component, only MSDS or listing on the inventory form for the component is necessary.

B. *Same Manner of Reporting.* Where practicable, the reporting of mixtures by a facility shall be in the same manner of MSDS (see 30–60–40) and inventory (see 30–60–50) reporting.

C. *Calculation of the Quantity.* If the reporting is on each component of the mixture which is a hazardous chemical, then the concentration of the hazardous chemical, in weight percent (greater than 1% or 0.1% if carcinogenic) shall be multiplied by the mass (in pounds) of the mixture to determine the quantity of the hazardous chemical in the mixture. If the reporting is on the mixture itself, the total quantity of the mixture shall be reported.

D. *Aggregation of Extremely Hazardous Substances.* To determine whether the reporting threshold for an extremely hazardous substance has been equaled or exceeded, the owner or operator of a facility shall aggregate the following:

1. The quantity of the extremely hazardous substance present as a component in all mixtures at the facility, and

2. All other quantities of the extremely hazardous substance present at the facility.

If the aggregate quantity of an extremely hazardous substance equals or exceeds the reporting threshold, the substance shall be reported.

If extremely hazardous substances are being reported and are components of a mixture at a facility, the owner or operator of a facility may report either:

1. The mixture, as a whole, even if the total quantity of the mixture is below its reporting threshold; or

2. The extremely hazardous substance component(s) of the mixture.

30–60–70 Toxic Chemical Release Inventory Reporting (EPCRA 313; 42 U.S.C. 11023)

A. *Basic Requirement.* A facility that is subject to the EPCRA section 313 reporting requirement shall submit annually a Toxic Chemical Release Inventory Reporting Form (Form R) to EPA and to affected States and Indian tribes. The purpose of this reporting is to inform the general public and the communities surrounding covered facilities about releases of toxic chemicals, to assist research, and to aid in the development of regulations, guidelines, and standards.

A completed Form R must be submitted for each toxic chemical manufactured, processed, or otherwise used at the facility in excess of the threshold quantity established for that chemical. The facility must report the activities and uses of the toxic chemical at the facility, quantity released to the environment (air, water, or land), maximum amount on-site during the calendar year, and amount contained in wastes transferred off-site. The facility must also provide certain treatment and pollution prevention data. Mandatory source reduction and recycling data reporting requirements were added to Form R after enactment of the Pollution Prevention Act of 1990 (42 U.S.C. 13101–13109). Reporting of source reduction and recycling data is discussed in chapter 30–80.

Suppliers must also notify persons to whom they distribute mixtures or trade name products containing toxic chemicals that they contain such chemicals.

EPA regulations governing annual toxic chemical release inventory reporting and supplier notification are contained in 40 CFR part 372.

B. *Applicability of the Reporting Requirement.* Section 313 of EPCRA requires that toxic chemical release inventory (TRI) reports be filed by facilities that meet all three of the following criteria during a calendar year.

1. The facility has ten or more full-time employees;

2. The facility is included in Standard Industrial Classification (SIC) Codes 20 through 39 (Note: Executive Order 12856 requires Federal facilities to comply with section 313 without regard to standard industrial classification); and

3. The facility manufactured (including imported), processed, or otherwise used any listed toxic chemical in excess of the established threshold quantity of that chemical (see subsection D. *Reporting Threshold*).

Executive Order 12856 provides that the head of each Federal agency shall comply with the provisions set forth in section 313 of EPCRA, all implementing regulations, and future amendments to these authorities, in light of applicable guidance as provided by EPA. The head of each Federal agency shall comply with these provisions without regard to the Standard Industrial Classification (SIC) delineations that apply to the Federal agency's facilities, and such reports shall be for all releases,

transfers, and wastes at such Federal agency's facility without regard to the SIC code of the activity leading to the release, transfer, or waste. All other existing statutory or regulatory limitations or exemptions on the application of EPCRA section 313 shall apply to the reporting requirements set forth in section 3–304(a) of the Order.

40 CFR 372.38(f) addresses reporting where two or more organizations operate establishments within a single facility on leased property without common ownership or control.

Note: The TRI reporting requirement is different from the reporting requirements in the preceding sections, because a section 313 report is not triggered by the release of a certain amount of a toxic chemical. The criteria for reporting under section 313 is based on the amount of a toxic chemical that a facility uses in a year. If a facility uses more than a certain amount of a listed toxic chemical in a year, all releases of that chemical must be reported (unless the use of release is exempted).

C. *Information Required To Be Reported.*

1. *Toxic Chemical Release Inventory.* Information elements that are reportable on EPA Form R or equivalent magnetic media format (see subsection I. *Form R Availability)* include the following:

(a) Name and CAS number (if applicable) of the chemical reported. The toxic chemicals that are subject to EPCRA section 313 reporting are listed in 40 CFR 372.65. The EPA regulations contain three listings of the toxic chemicals: (a) An alphabetical order listing of those chemicals that have an associated Chemical Abstracts Service (CAS) Registry number; (b) a CAS number order list of the same chemicals; and (c) an alphabetical listing of the chemical categories for which reporting is required.

(b) An indication of the activities and uses the chemical at the facility.

(c) An indication of the maximum amount of the chemical on site at any point in time during the reporting year.

(d) An estimate of total releases in pounds per year from the facility plus an indication of the basis of estimate for the following:

(1) Fugitive or non-point air emissions.

(2) Stack or point air emissions.

(3) Discharges to receiving streams or water bodies including an indication of the percent of releases due to stormwater (and the name(s) of receiving stream(s) or water body to which the chemical is released).

(4) Underground injection on site.

(5) Releases to land on site.

(e) Information on transfers of the chemical in wastes to off-site locations.

(f) Information relative to waste treatment.

(g) If the chemical identity is claimed trade secret, a generic name for the chemical.

(h) A mixture component identity if the chemical identity is not known.

Within the ''Instructions for Completing EPA Form R'', EPA warns that **because a complete Form R consists of at least nine unique pages, any submission containing less than nine unique pages will not be** considered a valid submission. A complete report for any listed toxic chemical that is not claimed as a trade secret consists of the following completed parts:

Part I with an original signature on the certification statement (section 2); and Part 11 (section 8 is now mandatory).

The instructions to Form R contain guidance for voluntary revision of a previously-submitted Form R.

Note: Reporting requirements for a current calender year may differ from previous years. Changes from the previous year are described in the instructions for Form R and should be carefully noted. Significant changes to the reporting requirements may occur because chemicals are added to the toxic chemical list for the current reporting year or have been delisted and are not covered for the reporting year. **See the Form R Reporting Instructions for the names and CAS number of chemicals that have been delisted from, or added to, the toxic chemical list.**

2. *Source Reduction and Recycling Data.* Section 8 of EPA Form R asks for data related to source reduction and recycling. Reporting requirements for source reduction and recycling data are described in chapter 30–80.

3. *Facility Identifying Information.* Certain identifying information about the facility must be reported on Form R, including facility name and address; main business activity; all facility identifiers (I.D.) (*e.g.,* EPA RCRA I.D. Number, NPDES permit number; Underground Injection Well Code (UIC) I.D., TRI facility I.D.); name and telephone number for both a technical contact and a public contact; and latitude and longitude coordinates for the facility.

4. *Certification by Senior Management Official.* A senior management official of the facility shall sign the Form R and make the following certification: ''I hereby certify that I have reviewed the attached documents and, to the best of my knowledge and belief , the submitted information is true and complete and that amounts and values in this report are accurate based upon reasonable estimates using data available to the preparer of the report.''

D. *Reporting Threshold.* 40 CFR 372.25 contains threshold amounts for reporting chemicals. If more than 25,000 pounds of a listed toxic chemical is manufactured (including imported) or processed at a facility in a calendar year, the chemical must be reported. If more than 10,000 pounds of a listed toxic chemical is not manufactured or processed but is otherwise used at a facility in a given calendar year, the chemical must be reported. When more than one threshold applies to an activity at a facility, the facility must report if it exceeds any applicable threshold and must report on all activities at the facility involving the chemical, unless exempted (see subsection F. *Exemptions from Reporting).*

When a facility manufactures, processes, or otherwise uses more than one member of a chemical category listed in 40 CFR 372.65(c), the facility must report if it exceeds any applicable threshold for the total volume of all the members of the category involved in the applicable activity. Any such report must cover all activities at the facility involving members of the category.

A facility may process or otherwise use a toxic chemical in a recycle/reuse operation. To determine whether the facility has processed or used more than an applicable threshold of the chemical, the facility shall count the amount of the chemical added to the recycle/reuse operation during the calendar year. In particular, if the facility starts up such an operation during a calendar year, or in the event that the contents of the whole recycle/reuse operation are replaced in a calendar year, the facility shall also count the amount of the chemical replaced into the system at these times.

If a toxic chemical is listed in 40 CFR 372.65 with the notation that only persons who manufacture the chemical, or manufacture it by a certain method, are required to report, a facility that solely processes or uses such a chemical is not required to report for that chemical. Only a facility that manufactures that chemical in excess of the threshold applicable to such manufacture is required to report. In completing the reporting form, the manufacturing facility is only required to account for the quantity of the chemical so manufactured and releases associated with such manufacturing, but not releases associated with subsequent processing or use of the chemical at that facility.

E. *Toxic Chemical Components of a Mixture or Trade Name Product.* A report is required on a toxic chemical that is known to be present as a component of a mixture or trade name

product which is received from another person, if that chemical is imported, processed, or otherwise used by the receiving facility in excess of an applicable threshold quantity as part of that mixture or trade name product. For purposes of EPA regulations, knowledge that a toxic chemical is present as a component of a mixture or trade name product exists if the operator of the facility:

1. Knows or has been told the chemical identity or Chemical Abstracts Service Registry Number of the chemical and the identity or Number corresponds to an identity or Number in 40 CFR 372.65, or

2. Has been told by the supplier of the mixture or trade name product that the mixture or trade name product contains a toxic chemical subject to EPCRA section 313.

Guidance in determining whether a toxic chemical which is a component of a mixture or trade name product has been imported, processed, or otherwise used in excess of an applicable threshold at the facility can be found at 40 CFR 372.30(b)(3).

F. *Exemptions from Reporting.*

1. *Laboratory Activities.* Toxic chemicals manufactured, processed, or used in a laboratory at a covered facility under the supervision of a technically qualified individual as defined in 40 CFR 720.3(ee)* do not have to be considered in determining whether a threshold has been met unless the laboratory is engaged in:

(a) Specialty chemical production;

(b) Manufacture, processing, or use of toxic chemicals in pilot plant-scale operations; or

(c) Activities conducted outside the laboratory.

* 40 CFR 720.3(ee) defines ''technically qualified individual'' as ''a person or persons (1) who, because of education, training, or experience, or a combination of these factors, is capable of understanding the health and environmental risks associated with the chemical substance which is used under his or her supervision; (2) who is responsible for enforcing appropriate methods of conducting scientific experimentation, analysis, or chemical research to minimize such risks; and (3) who is responsible for the safety assessments and clearances related to the procurement, storage, use, and disposal of the chemical substance as may be appropriate or required within the scope of conducting a research and development activity.''

2. *Other Uses.* If a toxic chemical is used at a covered facility for one of the following purposes, the facility is not required to consider the quantity of the toxic chemical used for such purpose when determining whether an applicable threshold has been met or determining the amount of releases to be reported:

(a) Use as a structural component of the facility;

(b) Use of products for routine janitorial or facility grounds maintenance (*e.g.*, use of janitorial cleaning supplies, fertilizers, and pesticides similar in type or concentration to consumer products);

(c) Personal use by employees or other persons at the facility of foods, drugs, cosmetics, or other personal items containing toxic chemicals, including supplies of such products within the facility such as in a facility operated cafeteria, store, or infirmary;

(d) Use of products containing toxic chemicals for the purpose of maintaining motor vehicles operated by the facility;

(e) Use of toxic chemicals present in process water and non-contact cooling water as drawn from the environment or from municipal sources, or toxic chemicals present in air used either as compressed air or as part of combustion.

Note: If the toxic chemical is also manufactured (including imported), processed, or otherwise used at the covered facility other than as described in this subsection, in excess of an applicable threshold quantity, the facility is required to report under 40 CFR 372.30.

3. *De Minimis Concentrations of a Toxic Chemical in a Mixture.* A facility is not required to consider the quantity of a toxic chemical present in a mixture of chemicals when determining whether an applicable threshold has been met or determining the amount of release to be reported if the toxic chemical is in a concentration in the mixture which is:

(a) Below 1 percent of the mixture; or

(b) Below 0.1 percent of the mixture in the case of a toxic chemical which is a carcinogen as defined in 29 CFR 1910.1200(d)(4).

This exemption applies whether the facility received the mixture from another person or the facility produced the mixture, either by mixing the chemicals involved or by causing a chemical reaction which resulted in the creation of the toxic chemical in the mixture.

Note: If the toxic chemical is also manufactured (including imported), processed, or otherwise used at the covered facility other than as part of the mixture or in a mixture at higher concentrations, in excess of an applicable threshold quantity, the facility is required to submit a Form R.

4. *Articles.* The quantity of a toxic chemical present in an article at a covered facility need not be considered when determining whether an applicable threshold has been met or determining the amount of release to be reported. ''Article'' means a manufactured item which:

(a) Is formed to a specific shape or design during manufacture;

(b) Has end-use functions dependent in whole or in part upon its shape or design during end-use; and

(c) Does not release a toxic chemical under normal conditions of processing or use of that item at the facility or establishments.

This exemption applies whether the facility received the article from another person or the facility produced the article. However, this exemption applies only to the quantity of the toxic chemical present in the article. If the toxic chemical is manufactured (including imported), processed, or otherwise used at the covered facility other than as part of the article, in excess of an applicable threshold quantity, the facility is required to submit a Form R. If a release * of a toxic chemical occurs as a result of the processing or use of an item at the facility, that item does not meet the definition of ''article''.

5. *Ownership of Leased Real Estate.* EPA regulations provide that the owner of a covered facility ''is not subject to TRI reporting if such owner's only interest in the facility is ownership of the real estate upon which the facility is operated.'' (40 CFR 372.38(e)). This exemption applies to owners of facilities, such as industrial parks, all or part of which are leased to persons who operate establishments within SIC code through 39 where the owner has no other business interest in the operation of the covered facility.

G. *Annual Reporting Period.* Reports are due annually and contain data on releases during the previous calendar year. The report for any calendar year must be submitted on or before July 1 of the following year. Executive Order 12856 provides that the first year of compliance for Federal agencies with the reporting in EPCRA Section 313 shall be no later than for the 1994 calendar year, with reports due on or before July 1, 1995.

H. *Reporting for Establishments Within a Facility.* For purposes of submitting a Form R, a ''covered facility'' may consist of more than one

* ''Release'' means ''any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles) of any toxic chemical.'' (40 CFR 372.3)

establishment. A separate Form R may be submitted for each establishment or for each group of establishments within the facility, provided that activities involving the toxic chemical at all the establishments within the covered facility are reported. If each establishment or group of establishments files separate reports, then separate reports must be submitted for all other chemicals subject to reporting at that facility. An establishment or group of establishments does not have to submit a report for a chemical that is not manufactured (including imported), processed, otherwise used, or released at that establishment or group of establishments.

I. *Form R Availability.* Reports under 313 of EPCRA are made on EPA Form R (EPA Form 9350–1), the *Toxic Chemical Release Inventory (TRI) Reporting Form.* Form R is submitted to EPA, affected States, and Indian tribes. A completed Form R must be submitted for each toxic chemical manufactured, processed, or otherwise used at each covered facility in excess of an applicable threshold.

EPA encourages facilities to submit the required information to EPA by using magnetic media (computer disk or tape) in lieu of Form R. Instructions for submitting and using magnetic media may also be obtained from the address given in this subsection.

The most current version of EPA Form R, including instructions for Form R, and related documents may be obtained from: Section 313 Document Distribution Center, P.O. Box 12505, Cincinnati, OH 45212.

EPA Form R and instructions also may be obtained by calling the EPCRA Information Hotline. Questions about completing Form R may be directed to the EPCRA Information Hotline at the following address or telephone numbers: Emergency Planning and Community Right-to-Know (EPCRA) Information Hotline, Environmental Protection Agency, 401 M Street, SW (OS–120), Washington, DC 20460, 800–535–2002 or 703–920–9877 from 8:30 a.m. to 7:30 p.m. Eastern Time, (Mon-Fri, except Federal holidays.)

The toll-free number is accessible throughout the United States, including Washington, DC, and Alaska. EPA Regional Staff may also be of assistance.

EPA has developed a package called the *Toxic Chemical Release Inventory Reporting System.* The diskette comes with complete instructions for use. It also provides prompts and messages to help report according to EPA instructions. For copies of the diskette, call the EPCRA Hotline.

J. *Where Reports Are To Be Sent.* Reports are to be sent to EPA and to the State-designated Sec. 313 contact for the State in which the facility is located or the designated official of an Indian tribe if it is located on Indian land.

Send reports to EPA by mail to: EPCRA Reporting Center, P.O. Box 23779, Washington, DC 20026–3779, Attn: Toxic Chemical Release Inventory.

To submit a Form R via hand delivery or certified mail, the EPCRA Information Hotline may be called to obtain the street address of the EPCRA Reporting Center. The Form R instructions include appropriate State submission addresses. Note that ''state'' also includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S.-Virgin Islands, the Northern Mariana Islands, and any other territory or possession over which the United States has jurisdiction. The Form R instructions also include information on sending copies to the applicable Indian tribe and submission of reports in magnetic media and computer-generated facsimile forms.

K. *Supplied Notification Requirement.*

1. *Basic Requirement.* EPA regulations provide that a facility that manufactures (including imports) or processes a toxic chemical and sells or otherwise distributes a mixture or trade name product containing the toxic chemical to a facility in Standard Industrial Classification Codes 20 through 39 that employs ten or more people, or to a person who in turn may sell or otherwise distribute such mixture or trade name product to such a facility, must provide a notification to each person to whom the mixture or trade name product is sold or otherwise distributed from the facility.

Note: 40 CFR 372.45 states that only those facilities that are in Standard Industrial Classification (SIC) codes 20 through 39 (see 40 CFR 372.22(b)) must provide a supplier notification. However, Executive Order 12856 states that each Federal agency is to comply with the provisions set forth in section 313 of EPCRA and all implementing regulations without regard to the SIC delineations that apply to the Federal agency's facilities.

40 CFR 372.45(h) addresses operation of separate establishments within a single facility by two organizations that do not have common ownership or control.

2. *Notification Contents.* The notification shall be in writing and shall include:

(a) A statement that the mixture or trade name product contains a toxic chemical or chemicals subject to the reporting requirements of EPCRA section 313 and 40 CFR part 372.

(b) The name of each toxic chemical, and the associated Chemical Abstracts Service registry number of each chemical if applicable, as set forth in 40 CFR 372.65.

(c) The percent by weight of each toxic chemical in the mixture or trade name product.

3. *Notification Procedure.* The written notice shall be provided to each recipient of the mixture or trade name product with at least the first shipment of each mixture or trade name product in each calendar year, beginning with the chemical's applicable effective date (see 40 CFR 372.65 for effective dates).

If an MSDS is required to be prepared and distributed for the mixture or trade name product in accordance with 29 CFR 1910.1200, the notification must be attached to or otherwise incorporated into the MSDS. When the notification is attached to the MSDS, the notice must contain clear instructions that the notifications must not be detached from the MSDS and that any copying and redistribution of the MSDS shall include copying and redistribution of the notice attached to copies of the MSDS subsequently redistributed.

4. *Exemption from Notification.* Notifications are not required in the following instances:

(a) If a mixture or trade name product contains no toxic chemical in excess of the applicable *de minimis* concentration (see subsection F. *Exemptions from Reporting).*

(b) If a mixture or trade name product is one of the following:

(1) an ''article'' (see subsection F. *Exemptions from Reporting);.*

(2) foods, drugs, cosmetics, alcoholic beverages, tobacco, or tobacco products packaged for distribution to the general public.

(3) any consumer product as the term is defined in the Consumer Product Safety Act (15 U.S.C. 1251 *et seq.*) packaged for distribution to the general public.

Note: EPA regulations also state that a person is not subject to the supplier notification requirement to the extent the person does not know that the facility or establishment(s) is selling or otherwise distributing a toxic chemical to another person in a mixture or trade name product. However * * * a person has such knowledge if the person receives a notice * * * from supplier of a mixture or trade name product and the person in turn sells or otherwise distributes that mixture or trade name product to another person.'' (40 CFR 372.45(g))

5. *Change in Mixture or Trade Name Product.* If a facility changes a mixture or trade name product for which notification was previously provided by

adding a toxic chemical, removing a toxic chemical, or changing the percent by weight of a toxic chemical in the mixture or trade name product, the facility shall provide each recipient of the changed mixture or trade name product a revised notification reflecting the change with the first shipment of the changed mixture or trade name product to the recipient.

If a facility discovers:

(a) That a mixture or trade name product previously sold or otherwise distributed to another person during the calendar year contains one or more toxic chemicals, and

(b) That any notification provided to such other person in that calendar year either did not properly identify any of the toxic chemicals or did not accurately present the percent by weight of any of the toxic chemicals in the mixture or trade name product,

The facility shall provide a new notification to the recipient within 30 days of the discovery and identify the prior shipments of the mixture or product to which the new notification applies.

6. *Trade Secret.* If the specific identity of a toxic chemical in a mixture or trade name product is considered to be a trade secret under provisions of 29 CFR 1910.1200, the notice shall contain a generic chemical name that is descriptive of that toxic chemical.

If the specific percent by weight composition of a toxic chemical in the mixture or trade name product is considered to be a trade secret under applicable state law or under the Restatement of Torts section 757, comment b, the notice must contain a statement that the chemicals is present at a concentration that does not exceed a specified upper bound concentration value. For example, a mixture contains 12 percent of a toxic chemical. However, the supplier considers the specific concentration of the toxic chemical in the product to be a trade secret. The notice would indicate that the toxic chemical is present in the mixture in a concentration of no more than 15 percent by weight. The upper bound value chosen must be no larger than necessary to adequately protect the trade secret.

L. *Recordkeeping.*

1. *Retention of Form R Materials and Documentation.* Each facility subject to the reporting requirements of this chapter (30–60) must retain the following records for a period of 3 years from the date of the submission of a Form R.

(a) A copy of each Form R submitted by the facility;

(b) All supporting materials and documentation used to make the compliance determination that the facility is a covered facility;

(c) Documentation supporting a submitted Form R, including:

(1) Documentation supporting any determination that a claimed allowable exemption from reporting applies.

(2) Data supporting the determination of whether a threshold applies for each toxic chemical.

(3) Documentation supporting the calculations of the quantity of each toxic chemical released to the environment or transferred to an off-site location.

(4) Documentation supporting the use indications and quantity on site reporting for each toxic chemical, including dates of manufacturing, processing, or use.

(5) Documentation supporting the basis of estimate used in developing any release or off-site transfer estimates for each toxic chemical.

(6) Receipts or manifests associated with the transfer of each toxic chemical in waste to off-site locations.

(7) Documentation supporting reported waste treatment methods, estimates of treatment efficiencies, ranges of influent concentration to such treatment, the sequential nature of treatment steps, if applicable, and the actual operating data, if applicable, to support the waste treatment efficiency estimate for each toxic chemical.

2. *Retention of Supplier Notification Materials and Documentation.* Each facility subject to the supplier notification requirement (see subsection K. *Supplier Notification Requirement)* must retain the following records for a period of 3 years from the date of the submission of a notification:

(a) A copy of each notice.

(b) All supporting materials and documentation used to make the compliance determination that the facility is a covered facility.

(c) All supporting materials and documentation used by the facility to determine whether a supplier notification is required.

(d) All supporting materials and documentation used in developing each required notice.

3. *Availability of Records.* Records must be maintained at the facility to which the Form R report applies or from which a notification was provided. Such records must be readily available for purposes of inspection by EPA. According to the Form R instructions, in the event of a problem with data elements on a facility's Form R, EPA may request documentation that supports the information reported from the facility. EPA may conduct data quality reviews of past Form R submissions. An essential component of this process would be to review a facility's records for accuracy and reliability. The Form R instructions include a list of records that a facility should maintain in addition to those that are required to be maintained.

30–60–80 Public Availability of Information; Withholding and Disclosure of Trade Secrets

A. *Availability of Information to Public.* EPCRA section 324 (42 U.S.C. 11044) provides that each emergency response plan MSDS, list of hazardous chemicals, inventory form, toxic chemical release form, and follow-up emergency notice shall be made available to the general public, subject to trade secret limitations, at locations designated by the Administrator of EPA, Governor, State emergency response commission, or local emergency planning committee. Each local emergency planning committee must annually publish a notice in local newspapers indicating where members of the public may review documents that have been submitted pursuant to EPCRA. EPA also maintains a national toxic chemical inventory, based on TRI reports, in a computer data base that is available to the public on a cost-reimbursable basis.

The Administrator of EPA, in any case in which the identity of a toxic chemical is claimed as a trade secret, must identify the adverse health and environmental effects associated with the toxic chemical and assure that such information is included in the TRI computer database and is provided to any person requesting information about such toxic chemical. The appropriate Governor or state commission must identify the adverse health effects associated with a hazardous chemical or extremely hazardous substance, when its identity is claimed as a trade secret, and provide such health effects information to any person requesting information about the hazardous chemical or extremely hazardous substance.

Section 5–508 of Executive Order 12856 also provides that the public shall be afforded ready access to all strategies, plans, and reports required to be prepared by Federal agencies under the order by the agency preparing the strategy, plan, or report (to the extent permitted by law). When the reports are submitted to EPA, EPA is to compile the strategies, plans, and reports and make them publicly available as well. Federal agencies are encouraged by the Executive Order to provide such strategies, plans and reports to the State

and local authorities where their facilities are located for an additional point of access to the public. Section 6–601 of Executive Order 12856 authorizes an agency to withhold certain information. (See 30–90)

B. *Trade Secret Procedures.* EPCRA section 322 (42 U.S.C. 11042) provides that a claim of trade secrecy may be made for the specific chemical identity of an extremely hazardous substance, a hazardous chemical, or a toxic chemical. Detailed information on how to submit a trade secrecy claim for information submitted pursuant to an EPCRA reporting requirement is contained in 40 CFR part 350. A trade secrecy claim may be submitted only to EPA and must be substantiated by providing specific answers to questions on an EPA form entitled ''Substantiation to Accompany Claims of Trade Secrecy'' (see 40 CFR 350.27). The submitter shall include with its EPCRA report both a sanitized and unsanitized trade secret substantiation form. The unsanitized version must contain all of the information claimed as trade secret or business confidential, properly marked in accordance with EPA regulations. The sanitized version is identical to the unsanitized version in all respects except that all of the information claimed as trade secret or business confidential is deleted, and a generic class or category to describe the trade secret chemical is included. This sanitized version is the one that is submitted to state or local authorities, as appropriate.

C. *Public Petition for Disclosure of Trade Secret Information.* The public may request the disclosure of a chemical identity claimed as trade secret by submitting a written petition to EPCRA Reporting Center, Environmental Protection Agency, P.O. Box 3348, Merrifield, Va. 22116–3348. The required contents of the petition are described in 40 CFR 350.15. This public petition process covers only requests for public disclosure of a chemical identify claimed as trade secret. Requests for disclosure of other types of information must be submitted under EPA's Freedom of Information Act regulations at 40 CFR part 2.

D. *Access by Federal Representatives or State Employees.*

1. *Authorized Federal Representative Access.* Under EPCRA section 322(f) (42 U.S.C. 11042(f)), EPA possesses the authority to disclose information to any authorized representative of the United States concerned with carrying out the requirements of EPCRA, even though the information might otherwise be entitled to trade secret or confidential treatment under EPA regulations. Such authority will be exercised by EPA only in accordance with 40 CFR 350.23.

2. *State Employee Access.* Any State may request access to trade secrecy claims, substantiations, supplemental substantiations, and additional information submitted to EPA in accordance with 40 CFR 350.19. EPA must release this information, even if claimed confidential, to any State in response to its written request if the request is from the Governor of the State and the State agrees to safeguard the information with procedures equivalent to those which EPA uses to safeguard the information. The Governor may disclose such information only to State employees.

E. *Access by Health Professionals.* EPCRA section 323 (42 U.S.C. 11043) allows health professionals to gain access to chemical identities, including those claimed as trade secret, in the following circumstances:

- for non-emergency treatment and diagnosis of an exposed individual;
- by health professionals employed by a local government to conduct preventive research studies and to render medical treatment; or
- for emergency diagnosis and treatment.

1. *Non-emergency Access.* In all circumstances but the medical emergency, the health professional must submit a written request and a statement of need, as well as a confidentiality agreement, to the facility holding the trade secret. The statement of need verifies that the health professional will be using the trade secret information only for the needs permitted in the statute, and the confidentiality agreement ensures that the health professional will not make any unauthorized disclosures of the trade secret. The required contents of the written request for access, including a certification signed by the health professional stating that the information contained in the statement of need is true, and the confidentiality statement are contained in 40 CFR 350.40. Following receipt of a written request, the facility to which such request is made shall provide the requested information to the health professional promptly.

2. *Emergency Access.* In the event of medical emergency,* a facility which is subject to the EPCRA reporting requirements must provide a copy of a MSDS, an inventory form, or a toxic chemical release form, including the specific chemical identity, if known, of a hazardous chemical, extremely hazardous substance, or a toxic chemical, to any treating physician or nurse who requests such information. The treating physician or nurse must have first determined that:

(a) A medical emergency exists as to the individual or individuals being diagnosed or treated;

(b) The specific chemical identity of the chemical concerned is necessary for or will assist in emergency or first-aid diagnosis or treatment; and

(c) The individual or individuals being diagnosed or treated have been exposed to the chemical concerned.

The specific chemical identity must be provided to the requesting treating physician or nurse immediately following the request, without requiring a written statement of need or a confidentiality agreement in advance. A written statement of need and confidentiality agreement may be required from the treating physician or nurse as soon as circumstances permit. The required contents of the statement of need and confidentiality agreement are specified in 40 CFR 350.40.

30–60–90 Compliance

A. *Internal Reviews.* OPDIVs/STAFFDIVs shall conduct internal reviews and audits and take such other steps as may be necessary to monitor compliance with the requirements of this chapter (30–60) and Executive Order 12856. Compliance with EPCRA means compliance with the same substantive, procedural, and other statutory and regulatory requirements that would apply to a private person.

B. *Annual Progress Report.* The Secretary will submit annual progress reports to the EPA Administrator beginning on October 1, 1995, regarding the progress that has been made in complying with all aspects of Executive Order 12856. This report and OPDIV/STAFFDIV responsibilities are described in chapter 30–09.

C. *Technical Assistance from EPA.* OPDIVs/STAFFDIVs are encouraged to request technical advice and assistance from EPA in order to foster full compliance with Executive Order 12856 and this chapter (30–60).

D. *EPA Monitoring.* Executive Order 12856 provides that the Administrator of EPA, in consultation with the Secretary, may conduct such reviews and inspections as may be necessary to monitor compliance with the agency's EPCRA responsibilities contained in

* ''Medical emergency'' means ''any unforeseen condition which a health professional would judge to require urgent and unscheduled medical attention. Such a condition is one which results in sudden and/or serious symptom(s) constituting a threat to a person's physical or psychological well-being and which requires immediate medical attention to prevent possible deterioration, disability, or death.'' (40 CFR 350.40(a)).

sections 30–60–20 through 30–60–70 of this chapter. OPDIVs/STAFFDIVs are to cooperate fully with the efforts of the Administrator to ensure compliance with Executive Order 12856. Should the Administrator notify an OPDIV/STAFFDIV that it is not in compliance with an applicable provision of Executive Order 12856, the OPDIV/STAFFDIV shall achieve compliance as promptly as is practicable.

E. *State and Local Right-to-Know Requirements.* OPDIVs/STAFFDIVs are encouraged to comply with all state and local right-to-know requirements to the extent that compliance with such laws and requirements is not otherwise already mandated.

F. *Prior Agreements for Application of EPCRA.* The compliance dates for application of EPCRA set forth in Executive Order 12856 are not intended to delay implementation of earlier timetables already agreed to by an OPDIV/STAFFDIV and are inapplicable to the extent they interfere with those timetables.

30–60–100 Civil and Criminal Penalties

EPCRA section 325 (42 U.S.C. 11045) establishes administrative, civil, and criminal penalties for violation of the Act. Table 2, following, indicates penalties that apply for specific violations. Certain section 325 penalties do not apply to government entities. Moreover, Executive Order 12856 does not make the provisions of section 325 applicable to any Federal agency or facility, except to the extent that such Federal agency or facility would independently be subject to such provision.

TABLE 2.—SUMMARY OF EPCRA PENALTIES

Requirement	Administrative penalty	Civil penalty	Criminal penalty
Emergency Planning (42 U.S.C. § 11002(c); § 11003(d))	.....	$25,000 per day	
Emergency Release Notification (42 U.S.C. § 11004)	$25,000 per day. Second violation: $75,000 per day.	$25,000 per day. Second violation: $75,000 per day.	$25,000 or two (2) years imprisonment or both. Second conviction: $50,000 or five (5) years imprisonment or both.
MSDS Reporting (42 U.S.C. § 11021) [1]	$10,000 per day	$10,000 per day	
Inventory Reporting (42 U.S.C. § 11022) [1]	$25,000 per day	$25,000 per day	
TRI Reporting (42 U.S.C. § 11023) [1]	$25,000 per day	$25,000 per day	
Provision of Information to Health Professionals (42 U.S.C. § 11043(b)) [1]	$10,000 per day	$10,000 per day	
Failure to Substantiate Trade Secret Claim (42 U.S.C. § 11042(a)(2))	$10,000 per day	$10,000 per day	
Frivolous Trade Secret Claim	$25,000 per claim	$25,000 per claim	
Disclosure of Trade Secret Information (42 U.S.C. § 11042)	.....	.....	$20,000 or one year imprisonment or both.

[1] Penalty does not apply to a ''government entity.''

Subject: Pollution Prevention Act of 1990 (PPA) Requirements

30–70–00 Background
05 Applicability
10 Responsibilities
20 Pollution Prevention Policy
30 Definitions
40 Toxic Chemical Source Reduction and Recycling Reporting
50 Public Availability of Source Reduction Information
60 Compliance
70 Civil and Criminal Penalties

30–70–00 Background

The Pollution Prevention Act of 1990, 42 U.S.C. 13101–13109, establishes national policy that pollution is to be prevented or reduced at the source. The Act also requires the reporting of efforts to reduce toxic chemical releases through source reduction and recycling. This reporting requirement affects all facilities required to submit Form R under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (see 30–60).

The Administrator of EPA is required by the PPA to develop a strategy to promote source reduction and to submit a biennial report to Congress that describes the actions taken to implement the strategy and analyzes the source reduction and recycling data submitted on Form R. EPA must also promote source reduction practices in other federal agencies; review EPA regulations to determine their effect on source reduction; make matching grants to states to promote the use of source reduction techniques by businesses; and establish a Source Reduction Clearinghouse.

30–70–05 Applicability

A. *Agency Facilities.* Executive Order 12856 provides that EPCRA and the PPA apply to all Federal executive agencies that either own or operate a ''facility'' as that term is defined in EPCRA, if such facility meets the EPCRA's threshold requirements for compliance. The statutory definition of facility is:

> all buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person (or by any person which controls, is controlled by, or under common control with, such person). For purposes of emergency release notification, the term includes motor vehicles, rolling stock, and aircraft (42 U.S.C. 11049(4)).

EPA regulations revise the statutory definition of facility to include ''manmade structures in which chemicals are purposefully placed or removed through human means such that it functions as a containment structure for human use.'' (40 CFR 355.20, 370.2). The purpose of the revision was to clarify that the definition applies to certain subsurface structures.

Executive Order 12856 modifies the statutory definition of facility in one respect. Each OPDIV/STAFFDIV must comply with the reporting provisions of the PPA without regard to the Standard Industrial Classification (SIC) delineations that apply to the organization's facilities, and such reports shall be for all releases, transfers, and wastes at such facilities without regard to the SIC code of the activity leading to the release, transfer, or waste. All other existing statutory or regulatory limitations or exemptions on the applications on the application of EPCRA section 313 shall apply to the

PPA reporting requirements in this chapter (see 30–60–70).

B. *Covered Facilities.* The reporting requirements of this chapter apply to facilities that must submit a Toxic Chemical Release Inventory Report (Form R) under section 313 of EPCRA. A completed Form R must be submitted for each toxic chemical manufactured, processed, or otherwise used at a covered facility in excess of the threshold quantity established for that chemical (see 30–60–70). Each OPDIV/STAFFDIV must apply all of the provisions of this chapter to each of its covered facilities, except for a federal agency facility outside the customs territory of the United States.

C. *GOCO'S.* Executive Order 12856 does not alter the obligations which government-owned, contractor-operated facilities (GOCOS) have under EPCRA and the PPA independent of that order or subjects such facilities to EPCRA or PPA if they are otherwise excluded. However, each OPDIV/STAFFDIV shall include the releases and transfers from all such facilities when meeting all of its responsibilities under this chapter.

D. *Preliminary List of Covered Facilities.* The Secretary was required by Executive Order 12856 to provide the Administrator of EPA by December 31, 1993, with a preliminary list of facilities that potentially meet the requirements for reporting under the threshold provisions EPCRA, PPA, and Executive Order 12856.

30–70–10 Responsibilities

A. *HHS.* An objective of Executive Order 12856 (see 30–80) is to ensure that all Federal agencies, conduct their facility management and acquisition activities so that, to the maximum extent practicable, the quantity of toxic chemicals entering any wastestream, including any releases to the environment, is reduced as expeditiously as possible through source reduction; that waste that is generated is recycled to the maximum extent practicable; and that any wastes remaining are stored, treated, or disposed of in a manner protective of public health and the environment. Executive Order 12856 requires the Secretary to comply with the reporting provisions set forth in section 6607 of the PPA (42 U.S.C. 13106), all implementing regulations, and future amendments to these authorities, in light of applicable guidance as provided by EPA.

B. *OPDIVs/STAFFDIVs.* The head of each OPDIV/STAFFDIV is responsible for ensuring that the OPDIV/STAFFDIV takes all necessary actions to prevent pollution in accordance with Executive Order 12856, and for that organization's compliance with the provisions of the PPA. Compliance with the PPA means compliance with the same substantive, procedural, and other statutory and regulatory requirements that would apply to a private person. An OPDIV/STAFFDIV should consult with EPA when a question arises as to the applicability of Executive Order 12856 to a particular facility.

30–70–20 Pollution Prevention Policy

A. *Pollution Prevention Act.* Section 6602(b) (42 U.S.C. 13101(b)) of the PPA states that it is the national policy of the United States that:

> pollution should be prevented or reduced at the source whenever feasible; pollution that cannot be prevented should be recycled in an environmentally safe manner whenever feasible; pollution that cannot be prevented or recycled should be treated in an environmentally safe manner whenever feasible; and disposal or other release into the environment should be employed only as a last resort and should be conducted in an environmentally safe manner.

OPDIVs/STAFFDIVs are to incorporate the environmental management hierarchy stated in this policy into their environmental management practices and procedures.

Source reduction is fundamentally different and more desirable than waste management and pollution control. Preventing pollution before it is created is preferable to trying to manage, treat, or dispose of pollution after it is generated. OPDIVs/STAFFDIVs are encouraged to take advantage of opportunities to reduce or prevent pollution at the source through cost-effective changes in production, operation, and raw materials use. Such changes can result in substantial savings in reduced raw material, pollution control, and liability costs as well as help protect the environment and reduce risks to worker health and safety.

B. *Executive Order 12856.* Executive Order 12856 indicates that the Federal government should become a leader in the field of pollution prevention through the management of its facilities, its acquisition practices, and in supporting the development of innovative pollution prevention programs and technologies. Additional policies and requirements that apply to pollution prevention are contained in chapter 30–80.

30–70–30 Definitions

A. *Pollution Prevention.* Executive Order 12856 defines ''pollution prevention'' in section 2–203 to mean ''source reduction,'' as defined in the PPA, and other practices that reduce or eliminate the creation of pollutants through:

- Increased efficiency in the use of raw materials, energy, water, or other resources; or
- Protection of natural resources by conservation.

EPA has issued a Statement of Definition of Pollution Prevention that is identical to the definition in section 2–203 of Executive Order 12856 (Memorandum from F. Henry Habicht II, Deputy Administrator, Environmental Protection Agency, Subject: EPA Definition of ''Pollution Prevention'', to All EPA Personnel (May 28, 1992)). The Statement of Definition explains that recycling, energy recovery, treatment, and disposal are not included within EPA's definition of pollution prevention. In distinguishing between prevention of pollution and recycling, EPA includes ''in-process recycling'' within the definition of ''pollution prevention.'' ''Out-of-process recycling'' is part of recycling and is not part of the definition. The Statement of Definition also comments that recycling that is conducted in an environmentally sound manner shares many of the advantages of prevention—it can reduce the need for treatment or disposal, and conserve energy and resources.

Note: A different definition of pollution prevention is used in guidance from the Council on Environmental Quality in NEPA matters (see 30–50–50).

B. *Source Reduction.* ''Source reduction'' is defined in PPA section 6603(6) (42 U.S.C. 13102(5)) to mean any practice that:

- Reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment (including fugitive emissions) prior to recycling, treatment or disposal; and
- Reduces the hazards to public health and the environment associated with the release of such substances, pollutants, or contaminants.

The term includes equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control.

The term ''source reduction'' does not include any practice that alters the physical, chemical, or biological characteristics or the volume of a hazardous substance, pollutant, or contaminant through a process or activity that is not integral to and

necessary for producing a product or providing a service.

30–70–40 Toxic Chemical Source Reduction and Recycling Reporting

A. *Requirement.* Section 6607 of the PPA (42 U.S.C 13106) directs each facility that is required to file an annual toxic chemical release form (Form R) under Sec. 313 of EPCRA to include a toxic chemical source reduction and recycling report with its toxic chemical release filing. The report must cover each toxic chemical required to be reported on Form R. Form R is discussed in 30–60–70. Reporting requirements under the PPA cover releases of toxic chemicals to all media (air, water, and land).

B. *Reporting Period.* A facility that is subject to the EPCRA section 313 and PPA section 6607 reporting requirements shall submit annually a Toxic Chemical Release Inventory Reporting Form (Form R) to EPA and to affected States and Indian tribes (see 30–60–70). Executive Order 12856 provides that the first year of compliance for Federal agencies with the PPA's reporting requirements shall be no later than for the 1994 calendar year, with reports due on or before July 1, 1995.

C. *Toxic Chemicals to be Reported.* The toxic chemicals that are subject to EPCRA section 313 and PPA section 6607 reporting are listed in 40 CFR 372.65. Additions to, or deletions from, the list are described each year in the *EPA Toxic Chemical Release Inventory Reporting Form R and Instructions* published in the **Federal Register** and available in booklet form from EPA. A completed Form R must be submitted for each toxic chemical manufactured, processed, or otherwise used at a covered facility in excess of the threshold quantity established for that chemical (see 30–60–70). Form R now includes data elements mandated by section 6607 of the PPA. A facility must provide information about source reduction and recycling activities related to each toxic chemical reported on Form R.

D. *Information to be Reported based on the ''Instructions for Completing EPA Form R''*

1. *Chemical Quantities.* Facilities must provide the following quantity information (in pounds) for each toxic chemical reported on Form R for the current reporting year, the prior year, and quantities anticipated in both the first year immediately following the reporting year and the second year following the reporting year (future estimates):

(a) Quantity of the toxic chemical (prior to recycling, treatment or disposal but not including one-time events) entering any waste stream or otherwise released * into the environment.

(b) Quantity of the toxic chemical or a mixture containing a toxic chemical that is used for energy recovery on-site or is sent off-site for energy recovery, unless it is a commercially available fuel;

Note: Reportable on-site and off-site energy recovery is the combustion of a residual material containing a TRI toxic chemical when (I) the combustion unit is integrated into an energy recovery system (i.e., industrial furnaces, industrial kilns, and boilers); and (ii) the toxic chemical is combustible and has a heating value high enough to sustain combustion.

(c) Quantity of the toxic chemical or a mixture containing a toxic chemical that is recycled on-site or is sent off-site for recycling;

(d) Quantity of the toxic chemical or a mixture containing a toxic chemical that is treated on-site or is sent to an off-site location for waste treatment; and

(e) Total quantity of toxic chemical released directly into the environment or sent off-site for recycling, waste treatment, energy recovery, or disposal during the reporting year due to any of the following events:

(1) Remedial actions,

(2) Catastrophic events, such as earthquakes, fires, or floods; or

(3) One-time events not associated with normal or routine production processes.

Note: The PPA separates the reporting of quantities of toxic chemicals recycled, used for energy recovery, treated, or disposed that are associated with normal or routine production operations from those that are not. Other sections of Form R dealing with releases to the environment and off-site transfers must include all releases and transfers as appropriate, regardless of whether they arise from catastrophic, remedial, or routine process operations.

Information available at the facility that may be used to estimate the prior year's quantities include the prior year's Form R submission, supporting documentation, and recycling, energy recovery, or treatment operating logs or invoices. However, for the first year of reporting these data elements, prior year quantities are required only to the extent such information is available. EPA expects reasonable future quantity estimates using a logical basis. Reporting facilities should take into account protections available for trade secrets as provided in EPCRA section 322 (42 U.S.C. 11042) (see 30–60–80).

2. *Production Ratio or Activity Index.* The facility must report a ratio of reporting year production to prior year production, or an ''activity index'' based on a variable other than production that is the primary influence on the quantity of the reported toxic chemical recycled, used for energy recovery, treated, or disposed.

3. *Source Reduction Activities.* If a facility engaged in any source reduction activity for the reported toxic chemical during the reporting year, the facility shall report the activity that was implemented. The information is to be reported only if a source reduction activity was newly implemented specifically (in whole or in part) for the reported toxic chemical during the reporting year. ''Source reduction activities'' are those actions that are taken to reduce or eliminate the amount of the reported toxic chemical released, used for energy recovery, recycled, or treated. Actions taken to recycle, threat, or dispose of the toxic chemical are not considered source reduction activities. Form R provides for the reporting of source reduction activities by category. The categories include:

- Good Operating Practices
- Inventory Control
- Spill and Leak Prevention
- Raw Material Modifications
- Process Modifications
- Cleaning and Degreasing
- Modified Containment Procedures for Cleaning Units
- Surface Preparation and Finishing
- Product Modifications

4. *Source Reduction Techniques.* If a facility engaged in any source reduction activity for the reported toxic chemical during the reporting year, the facility must also report the method used to identify the opportunity for the activity implemented. Methods to identify source reduction opportunities include:

- Internal or external pollution prevention opportunity audit(s)
- Materials balance audits
- Participative team management
- Employee recommendations (under a formal OPDIV/STAFFDIV Program or independent of a formal program)
- Federal or state government technical assistance program
- Trade association/industry technical assistance program
- Vendor assistance

5. *Additional Source Reduction, Recycling, or Pollution Control Information.* Form R provides an opportunity for a reporting facility to

* Reportable releases include ''any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment of barrels, containers, and other closed receptacles).'' (EPCRA section 329(8); 42 U.S.C. 11049(8)).

indicate any additional information on source reduction, recycling, or pollution control activities implemented at the facility in the reporting year or in prior years for the reported toxic chemical.

E. *Relationship to RCRA Reporting.* The reporting categories for quantities recycled, treated, used for energy recovery, and disposed apply to completing the source reduction section as well as to the rest of Form R. According to EPA, these categories are to be used only for TRI reporting. They are not intended for use in determining, under the Resource Conservation and Recovery Act (RCRA) Subtitle C regulations, whether a secondary material is a waste when recycled. These categories (and their definitions) also do not apply to the information that may be submitted in a Hazardous Waste Report by hazardous waste generators and treatment, storage, and disposal (TSD) facilities to EPA or an authorized state under RCRA sections 3002 and 3004 (42 U.S.C. 6922, 6924). Differences in terminology and reporting requirements for toxic chemicals reported on Form R and for hazardous wastes regulated under RCRA occur because EPCRA and the PPA focus on specific chemicals, while the RCRA regulations and the Hazardous Waste Report focus on wastes, including mixtures.

F. *Form R. Availability.* Reports under EPCRA section 313 and PPA section 6607 are made on EPA Form R (EPA Form 9350–1), the *Toxic Chemical Release Inventory (TRI) Reporting Form.* EPA encourages facilities to submit the required information to EPA by using magnetic media (computer disk or tape) in lieu of Form R. More complete guidance on obtaining Form R and sources of information regarding, the submitted of Form R is contained in section 30–60–70.

G. *Where Reports Are to be Sent.* Form R is submitted to EPA, affected States, and affected Indian tribes.

Send reports to EPA by mail to: EPCRA Reporting Center, P.O. Box 23779, Washington, DC 20026–3779, Attn: Toxic Chemical Release Inventory.

To submit a Form R via hand delivery or certified mail, the EPCRA Hotline (800–535–2002) may be called to obtain the street address of the EPCRA Reporting Center.

Additional information on submitting a Form R is contained in section 30–60–70.

H. *Trade Secrets.* The provisions of EPCRA section 322 (42 U.S.C. 11042) dealing with the protection of trade secrets apply to the reporting requirements of this section in the same manner as to the reports required under section 313 of EPCRA (see 30–60–80).

30–70–50 Public Availability of Source Reduction Information

A. *OPDIVs/STAFFDIVs.* Unless such documentation is withheld pursuant to a statutory requirement of Executive Order, the public shall be afforded ready access to all reports required to be prepared by an OPDIV/STAFFDIV under this chapter. OPDIVs/STAFFDIVs are encouraged to provide such reports to the state and local authorities where their facilities are located for an additional point of access to the public. Public availability of information submitted on Form R is also discussed in section 30–60–80.

B. *EPA.* The PPA and Executive Order 12856 require the Administrator of EPA to make available to the public the source reduction information gathered pursuant to the PPA and such other pertinent information and analysis regarding source reduction as may be available to the Administrator. Subject to the trade secret provisions of EPCRA, EPA must make the data collected on Form R, pursuant to section 6607 of the PPA, publicly available in the same manner as the data collected under EPCRA section 313. The Administrator has also established, in accordance with PPA section 6606 (42 U.S.C. 13105), a Source Reduction Clearinghouse to compile information, including a computer data base that contains information on management, technical, and operational approaches to source reduction. The data base permits entry and retrieval of information by any person.

30–70–60 Compliance

A. *Internal Reviews.* OPDIVs/STAFFDIVs shall conduct internal reviews and audits, and take such other steps, as may be necessary to monitor compliance with the requirements of this chapter and Executive Order 12856.

B. *Annual Progress Report.* The Secretary will submit annual progress reports to the EPA Administrator beginning on October 1, 1995, regarding the progress that has been made in complying with all aspects of Executive Order 12856, including the pollution reduction requirements. This report and OPDIV/STAFFDIV responsibilities are described in Chapter 30–80.

C. *Technical Assistance from EPA.* OPDIVs/STAFFDIVs are encouraged to request technical advice and assistance from EPA in order to foster full compliance with Executive Order 12856 and this chapter.

D. *EPA Monitoring.* Executive Order 12856 provides that the Administrator of EPA, in consultation with the Secretary, may conduct such reviews and inspections as may be necessary to monitor compliance with the PPA responsibilities contained in this chapter. OPDIVs/STAFFDIVs are to cooperate fully with the efforts of the Administrator to ensure compliance with Executive Order 12856. Should the Administrator notify an OPDIV/STAFFDIV that it is not in compliance with an applicable provision of Executive Order 12856, the OPDIV/STAFFDIV shall achieve compliance as promptly as is practicable.

E. *State and Local Pollution Prevention Requirements.* OPDIVs/STAFFDIVs are encouraged to comply with all State and local pollution prevention requirements to the extent that compliance with such laws and requirements is not otherwise already mandated.

F. *Funding Pollution Prevention Programs.* In accordance with Executive Order 12856, OPDIVs/STAFFDIVs shall place high priority on obtaining funding and resources needed for implementing pollution prevention strategies, plans, and assessments by identifying, requesting, and allocating funds through line-item or direct funding requests. Funding requests shall be made in accordance with the Federal Agency Pollution Prevention and Abatement Planning Process and through budget requests as outlined in Office of Management and Budget (OMB) Circulars A–106 and A–11, respectively.

G. *Life Cycle Analysis and Total Cost Accounting.* OPDIVs/STAFFDIVs should apply, to the maximum extent practicable, life cycle analysis and total cost accounting principles to all projects needed to meet the requirements of this chapter.

H. *Contractors.* All OPDIVs/STAFFDIVs shall provide, in all future contracts between the organization and its relevant contractors, for the contractor to supply all information the OPDIV/STAFFDIV deems necessary for it to comply with this chapter. In addition, to the extent that compliance with this chapter and Executive Order 12856 is made more difficult due to lack of information from existing contractors, an OPDIV/STAFFDIV shall take practical steps to obtain the information from such contractors that is needed to comply.

I. *Prior Agreements for Application of EPCRA and PPA.* The compliance dates for application of EPCRA and PPA set forth in Executive Order 12856 are not intended to delay implementation of earlier timetables already agreed to by a Federal agency and are inapplicable to

the extent they interfere with those timetables.

30–70–70 Civil and Criminal Penalties

EPCRA section 325(c) (42 U.S.C. 11045(c)), which provides civil and administrative penalties for failure to report TRI information, also applies to the PPA's requirement to report toxic chemical source reduction and recycling information on Form R. The penalty for failure to file a Form R is $25,000 for each day of violation of the law.

EPCRA section 325(c) penalties do not apply to a governmental entity. Moreover, Executive Order 12856 does not make the provisions of section 325 applicable to any Federal agency or facility, except to the extent that such Federal agency or facility would independently be subject to such provisions.

Subject: Executive Order 12856, Federal Compliance With Right-to-Know Laws and Pollution Prevention Requirements

30–80–00 Background

The objective of Executive Order 12856, August 3, 1993 (58 FR 41981), is to foster the Federal government as a good neighbor to local communities by becoming a leader in providing information to the public concerning toxic and hazardous chemicals and extremely hazardous substances at Federal facilities, and in planning for and preventing harm to the public through the planned or unplanned releases of chemicals. The Order also encourages the Federal government to be a leader in the field of pollution prevention through the management of its facilities, its acquisition practices, and in supporting the development of innovative pollution prevention programs and technologies. Executive Order 12856 seeks to ensure that all Federal agencies conduct their facility management and acquisition activities so that, to the maximum extent practicable:

- The quantity of toxic chemicals entering any wastestream, including any releases to the environment, is reduced as expeditiously as possible through source reduction;
- Waste that is generated is recycled to the maximum extent practicable; and
- Any wastes remaining are stored, treated, or disposed of in a manner protective of public health and the environment.

Executive Order 12856 requires Federal agencies to comply with the requirements of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11001–11050) and the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13101–13109). EPCRA establishes programs to provide the public with important information on the hazardous and toxic chemicals in their communities and emergency planning and notification requirements to protect the public in the event of release of extremely hazardous substances. The order requires Federal agencies to report in a public manner toxic chemicals entering any wastestream from their facilities, including any releases to the environment, and to improve local emergency planning, response, and accident notification. Facilities that are subject to EPCRA are required to provide information and reports to EPA and state and local groups. Five distinct reporting requirements are contained in EPCRA. Each of these reporting requirements and other facility responsibilities under EPCRA and Executive Order 12856 are described in chapter 30–60.

The PPA establishes national policy that pollution is to be prevented or reduced at the source. The Act also requires the reporting of efforts to reduce toxic chemical releases through source reduction and recycling. The PPA reporting requirement and other facility responsibilities under the PPA and Executive Order 12856 are described in chapter 30–70.

Executive Order 12856 also places other responsibilities on federal agencies that are not contained in EPCRA or PPA. It requires Federal agencies to develop voluntary goals to reduce total releases of toxic chemicals to the environment and off-site transfers of such toxic chemicals for treatment and disposal; a pollution prevention strategy and plan; a plan and goals for eliminating or reducing the unnecessary acquisition of products containing extremely hazardous substances or toxic chemicals; and a plan and goals for voluntarily reducing agency manufacturing, processing, and use of extremely hazardous substances and toxic chemicals. These additional responsibilities under Executive Order 12856 are described in this chapter.

30–80–05 Applicability

A. *Covered Facilities.* Executive Order 12856 is applicable to all OPDIVs/STAFFDIVs that either own or operate a ''facility'' as that term is defined in EPCRA section 329(4) (42 U.S.C. 11049(4)), if such facility meets EPCRA's threshold requirements for compliance. Each of the threshold requirements for EPCRA compliance are discussed in chapter 30–60. The statutory definition of ''facilities:

> all buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person (or by any person which controls, is controlled by, or under common control with, such person). For purposes of emergency release notification, the term includes motor vehicles, rolling stock, and aircraft.

EPA regulations revise the statutory definition of facility to include ''manmade structures in which chemicals are purposefully placed or removed through human means such that it functions as a containment structure for human use.'' (40 CFR 355.20, 370.2). The purpose of the revision was to clarify that the definition applies to certain subsurface structures.

Each OPDIV/STAFFDIV must apply all of the provisions of Executive Order 12856 to each of its covered facilities, including those facilities which are subject, independent of the Executive Order, to the provisions of EPCRA (e.g., certain government-owned/contractor-operated facilities (GOCOS)).

Executive Order 12856 does not apply to Federal agency facilities outside the customs territory of the United States. EPA may be consulted to determine the applicability of Executive Order 12586 to particular OPDIV/STAFFDIV facilities.

B. *Preliminary List of Covered Facilities.* The Secretary was required by Executive Order 12856 to provide the EPA Administrator by December 31, 1993, with a preliminary list of facilities that potentially meet the requirements for reporting under the threshold provisions of EPCRA, PPA, and Executive Order 12856.

30–80–10 Responsibilities

The head of each OPDIV/STAFFDIV is responsible for ensuring that all necessary actions are taken for the prevention of pollution with respect to that organization's activities and facilities, and for ensuring compliance with the appropriate pollution prevention and emergency planning and community right-to-know provisions of the PPA and EPCRA. To the maximum

extent practicable, the head of each OPDIV/STAFFDIV shall strive to comply with the purposes, goals, and implementation steps set forth in Executive Order 12856.

HHS Headquarters has developed the Pollution Prevention Strategy. The head of each OPDIV/STAFFDIV with facilities covered by the Executive Order must ensure that the organization develops, consistent with the HHS Pollution Prevention Strategy:

1. Voluntary goals to reduce the organization's total releases of toxic chemicals to the environment and off-site transfers of such toxic chemicals for treatment and disposal from facilities covered by Executive Order 12856;

2. A written pollution prevention plan;

3. A plan and goals for eliminating or reducing the unnecessary acquisition of products containing extremely hazardous substances or toxic chemicals;

4. A plan and goals for voluntarily reducing manufacturing, processing, and use of extremely hazardous substances and toxic chemicals.

The OPDIV/STAFFDIV shall submit progress reports, conduct internal reviews and audits, and take such other steps as may be necessary to monitor compliance with the requirements of this chapter and Executive Order 12856. The head of each OPDIV/STAFFDIV with facilities covered by the Executive Order shall also place high priority on obtaining funding and resources needed for implementing all aspects of this chapter and Executive Order 12856.

30–80–15 Definitions

Executive Order 12856 incorporates by reference all definitions found in EPCRA and PPA and implementing regulations (except the term ''person'', as defined in section 329(7) (42 U.S.C. 11049(7)) of EPCRA, also includes Federal agencies). The following definitions are used in this chapter and chapters 30–60 and 30–70:

A. *Extremely Hazardous Substance.* An ''extremely hazardous substance'' is defined in EPCRA section 329(3) (42 U.S.C. 11049(3)) and EPA regulations in 40 CFR 355.20 to mean a substance that is listed in Appendices A (in alphabetical order) and B (by CAS number) of 40 CFR part 355.

B. *Pollution Prevention.* Pollution prevention is defined in section 2–203 of Executive Order 12856 to mean ''source reduction,'' as defined in the PPA, and other practices that reduce or eliminate the creation of pollutants through:

- Increased efficiency in the use of raw materials, energy, water, or other resources; or
- Protection of natural resources by conservation.

EPA has issued a Statement of Definition of Pollution Prevention that is identical to the definition in Executive Order 12856 (Memorandum from F. Henry Habicht II, Deputy Administrator, Environmental Protection Agency, Subject: EPA Definition of ''Pollution Prevention'', to All EPA Personnel (May 28, 1992)). The Statement of Definition explains that recycling, energy recovery, treatment, and disposal are not included within EPA's definition of pollution prevention. In distinguishing between prevention of pollution and recycling, EPA includes ''in-process recycling'' within the definition of ''pollution prevention.'' ''Out-of-process recycling'' is part of recycling and is not part of the definition. The Statement of Definition also comments that recycling that is conducted in an environmentally sound manner shares many of the advantages of prevention—it can reduce the need for treatment of disposal, and conserve energy and resources.

Note: A different definition of pollution prevention is used in guidance from the Council on Environmental Quality in NEPA matters (see 30–50–50).

C. *Source Reduction.* ''Source reduction'' is defined in PPA section 6603(5) (42 U.S.C. 13102(5)) to mean any practice that:

- Reduces the amount of any hazardous substance, pollutant or contaminant entering any waste stream or otherwise released into the environment (including fugitive emissions) prior to recycling, treatment, or disposal; and
- Reduces the hazards to public health and the environment associated with the release of such substances, pollutants, or contaminants.

The term includes equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control.

The term ''source reduction'' does not include any practice that alters the physical, chemical, or biological characteristics or the volume of a hazardous substance, pollutant, or contaminant through a process or activity that is not integral to and necessary for producing a product or providing a service.

D. *Toxic Chemical.* Toxic chemical means a substance on the list described in section 313(c) of EPCRA (42 U.S.C. 11023(c)) and contained in 40 CFR 372.65 (see 30–60–70).

E. *Toxic Pollutants.* Under the provisions of section 313 of EPCRA as of December 1, 1993 (see 30–60–70), OPDIVs/STAFFDIVs may choose to include releases and transfers of other chemicals, such as:

- An ''extremely hazardous substance'' as defined in section 329(3) of EPCRA (42 U.S.C. 11049(3)) and listed in 40 CFR part 355, Appendices A & B (see 30–60–20 and –30);
- A ''hazardous waste'' under section 3001 of RCRA (42 U.S.C. 6921) as defined in 40 CFR 261.3 (see section 30–00–30); or
- A ''hazardous air pollutant'' listed under section 112(b) of the Clean Air Act (42 U.S.C. 7412(b)) (see 30–00–30).

For the purposes of establishing the OPDIV/STAFFDIV baseline under subsection C of section 30–80–30, such ''other chemicals'' are in addition to (not instead of the EPCRA section 313 chemicals. The term ''toxic pollutants'' does not include hazardous waste subject to remedial action generated prior to August 3, 1993.

30–80–20 Pollution Prevention Strategy

A. *Achievement of Executive Order 12856 Requirements.* The HHS Pollution Prevention Strategy was developed to achieve the following requirements specified in sections 3–302 through 3–305 of Executive Order 12856:

1. *Toxic Chemical Release Reduction Goals.* Voluntary goals to reduce the Department's total releases of toxic chemicals or toxic pollutants to the environment and off-site transfers of such toxic chemicals or toxic pollutants for treatment and disposal from facilities covered under Executive Order 12856 by 50 percent December 31, 1999, utilizing, to the maximum extent practicable, source reduction practices.

2. *Acquisition and Procurement Goals and Plans.* Plans and goals for eliminating or reducing the unnecessary acquisition of products containing extremely hazardous substances of toxic chemicals and a plan and goal for voluntarily reducing manufacturing, processing, and use of extremely hazardous substances and toxic chemicals.

3. *Toxic Chemical Release Inventory and Pollution Prevention Act Reporting.* Compliance with the provisions of EPCRA section 313 (42 U.S.C. 11023) and PPA section 6607 (42 U.S.C. 13106) and all implementing regulations.

4. *Emergency Planning and Community Right-to-Know Reporting Responsibilities.* Compliance with the

provisions set forth in sections 301 through 312 of EPCRA (42 U.S.C. 11001–11022) and all implementing regulations.

B. *Strategy Contents.* The Pollution Prevention Strategy includes the following elements:

1. *Pollution Prevention Policy Statement.* The HHS Pollution Prevention Strategy contains a Pollution Prevention Policy Statement that reflects the Department's commitment to incorporate pollution prevention through source reduction in facility management and acquisition. The statement designates principal responsibilities for development, implementation, and evaluation of the strategy. The statement also identifies an individual responsible for coordinating the Department's efforts in pollution prevention.

2. *Source Reduction Commitment.* The Pollution Prevent Strategy commits the Department to utilize pollution prevention through source reduction, where practicable, as the primary means of achieving and maintaining compliance with all applicable federal, state, and local environmental requirements.

3. *Executive Order 12856 Achievement Plan.* The strategy contains plans for achieving the requirements specified in sections 3–302 through 3–305 of Executive Order 12856, as summarized in subsection A of this section.

30–80–30 Toxic Chemical Reduction Goals

A. *OPDIV/STAFFDIV Toxic Chemical Release Reduction Goals.* Each OPDIV/STAFFDIV having facilities covered by Executive Order 12856 shall develop voluntary goals to reduce total releases of toxic chemicals to the environment and off-site transfers of such toxic chemicals for treatment and disposal by 50 percent by December 31, 1999. To the maximum extent practicable, such reductions shall be achieved by implementation of source reduction practices.

B. *Baseline Measurement.* The baseline for measuring reductions for purposes of achieving the 50 percent reduction goal in subsection A of this section for each OPDIV/STAFFDIV is the first year in which releases of toxic chemicals to the environment and off-site transfers of such chemicals for treatment and disposal are publicly reported. The baseline amount to which the 50 percent reduction goal applies is the aggregate amount of toxic chemicals reported in the baseline year for all that OPDIV/STAFFDIV's covered facilities. In no event shall the baseline be later than the 1994 reporting year.

C. *Alternate Toxic Pollutants Reduction Goal.* As an alternative to a 50 percent reduction goal for toxic chemicals, an OPDIV/STAFFDIV may choose to achieve a 50 percent reduction goal for toxic pollutants. In such event, the OPDIV/STAFFDIV shall delineate the scope of its reduction program in the written pollution prevention plan that is required by section 30–80–40. The baseline for measuring reductions for purposes of achieving the 50 percent reduction requirement for each OPDIV/STAFFDIV shall be the first year in which releases of toxic pollutants to the environment and off-site transfers of such chemicals for treatment and disposal are publicly reported for each of that OPDIV/STAFFDIV's facilities encompassed by its pollution prevention plan. In no event shall the baseline year be later than the 1994 reporting year. The baseline amount as to which the 50 percent reduction goal applies shall be the aggregate amount of toxic pollutants reported by the OPDIV/STAFFDIV in the baseline year. For any toxic pollutants included by the OPDIV/STAFFDIV in determining its baseline under this section, in addition to toxic chemicals under EPCRA, the OPDIV/STAFFDIV shall report on such toxic pollutants annually as part of its toxic chemical release inventory report (see 30–60–70), if practicable, or through a report that is made available to the public.

30–80–40 Pollution Prevention Plan

A. *Pollution Prevention Plan.* The head of each OPDIV/STAFFDIV shall ensure that each of its covered facilities developed a written Pollution Prevention Plan. Each facility plan shall set forth the facility's contribution to the OPDIV's/STAFFDIV's toxic chemical reduction goals (see 30–90–30).

B. *Facility Assessments.* OPDIVs/STAFFDIVs shall conduct assessments of their facilities as necessary to ensure development of facility pollution prevention plans and pollution prevention programs.

30–80–50 Acquisition and Procurement Plans and Goals

A. *Plans and Goals*

1. *Toxic Chemical Acquisition Reduction Plan and Goals.* Each OPDIV/STAFFDIV shall establish a plan and goals for eliminating or reducing the unnecessary acquisition of products containing extremely hazardous substances or toxic chemicals.

2. *Toxic Chemical Use Reduction Plan and Goal.* Each OPDIV/STAFFDIV shall establish a plan and goal for voluntarily reducing its own manufacturing, processing, and use of extremely hazardous substances and toxic chemicals.

B. *Specifications and Standards Review.* OPDIVs/STAFFDIVs shall also review (in coordination with GSA, EPA, and other Federal agencies where appropriate) their standardized documents, including specifications and standards, and identify opportunities to eliminate or reduce the use of extremely hazardous substances and toxic chemicals, consistent with the safety and reliability requirements of their missions. All appropriate revisions to these specifications and standards shall be made by 1999.

C. *Coordination with EPA.* Each OPDIV/STAFFDIV shall establish priorities for implementing this section in coordination with EPA.

D. *Innovative Pollution Prevention Technologies.* OPDIVs/STAFFDIVs are encouraged to develop and test innovative pollution prevention technologies at their facilities in order to encourage the development of strong markets for such technologies. Partnerships should be encouraged between industry, Federal agencies, Government laboratories, academia, and others to assess and deploy, innovative environmental technologies for domestic use and for markets abroad.

30–80–60 EPCRA and Pollution Prevention Act Responsibilities

A. *Emergency Planning and Community Right-to-Know Responsibilities.* The head of each OPDIV/STAFFDIV is responsible for assuring compliance with the provisions set forth in sections 301 through 312 of EPCRA (42 U.S.C. 11001–11022). Procedures for complying with these requirements are contained in chapter 30–60.

B. *Toxic Chemical Release Inventory and Pollution Prevention Act Reporting.* The head of each OPDIV/STAFFDIV is responsible for assuring compliance with the reporting requirements set forth in EPCRA section 313 (42 U.S.C. 11023) and PPA section 6607 (42 U.S.C. 13106). Procedures for complying with these reporting requirements are contained in chapters 30–60 and 30–70. In accordance with Executive Order 12856, each OPDIV/STAFFDIV shall comply with these reporting requirements without regard to the Standard Industrial Classification (SIC) delineations that apply to the organization's facilities, and such reports shall be for all releases, transfers, and wastes at such facilities without regard to the SIC code of the

activity leading to the release, transfer, or waste.

30–80–70 Compliance

A. *Scope of Compliance.* Executive Order 12856 provides that compliance with EPCRA and PPA means compliance with the same substantive, procedural, and other statutory and regulatory requirements that would apply to a private person.

B. *Internal Reviews.* OPDIVs/STAFFDIVs shall conduct internal reviews and audits, and take such other steps as may be necessary, to monitor compliance with the requirements of this chapter and Executive Order 12856, including conducting assessments of their facilities to ensure development of facility pollution prevention plans and pollution prevention programs.

C. *Annual Progress Reports*

1. *HHS Annual Report to EPA.* The Secretary will submit annual progress reports to the EPA Administrator beginning on October 1, 1995. These reports will include a description of the progress that has been made in complying with all aspects of Executive Order 12856, including pollution reduction requirements. This reporting requirement expires after the report due on October 1, 2001. All OPDIVs/STAFFDIVs must institute procedures that will permit timely progress reporting by OPDIV/STAFFDIV facilities and the gathering of information for the Secretary's report.

2. *EPA Annual Report to President.* Executive Order 12856 requires EPA to submit an annual report to the President on Federal agency compliance with toxic chemical release inventory reporting under EPCRA section 313 and toxic chemical source reduction and recycling reporting under PPA section 6607 (see chapters 30–60 and 30–70). All OPDIVs/STAFFDIVs must institute procedures that will permit timely progress reporting to EPA for its report to the President.

D. *Contractor Reporting Responsibilities.* To facilitate compliance with Executive Order 12856, OPDIVs/STAFFDIVs shall provide, in all future contracts between the organization and its relevant contractors, for the contractor to supply to the OPDIV/STAFFDIV all information that the OPDIV/STAFFDIV deems necessary for it to comply with the order. In addition, to the extent that compliance with Executive Order 12856 is made more difficult due to lack of information from existing contractors, OPDIVs/STAFFDIVs shall take practical steps to obtain the information needed to comply with the order from such contractors. Although Executive Order 12856 does not alter the obligations which GOCOs have under EPCRA and PPA independent of the order or subjects such facilities to EPCRA or PPA if they are otherwise excluded, the releases and transfers from all such facilities are to be included when meeting all of the OPDIV's/STAFFDIV's responsibilities under Executive Order 12856.

E. *Technical Assistance from EPA.* OPDIVs/STAFFDIVs are encouraged to request technical advice and assistance from EPA in order to foster full compliance with Executive Order 12856 and this chapter.

F. *Technical Assistance to Local Emergency Planning Committees.* OPDIVs/STAFFDIVs shall provide technical assistance, if requested, to local emergency planning committees in their development of emergency response plans and in fulfillment of their community right-to-know and risk reduction responsibilities (see 30–60).

G. *EPA Review.* Executive Order 12856 provides that the Administrator of EPA, in consultation with the Secretary, may conduct such reviews and inspections as may be necessary to monitor compliance with HHS responsibilities under EPCRA (see 30–60) and the PPA (see 30–70). OPDIVs/STAFFDIVs are to cooperate fully with the efforts of the Administrator to ensure compliance with Executive Order 12856. Should the Administrator notify on OPDIV/STAFFDIV that it is not in compliance with an application provision of Executive Order 12856, the OPDIV/STAFFDIV shall achieve compliance as promptly as is practicable.

H. *State and Local Right-to-Know Requirements.* OPDIVs/STAFFDIVs are encouraged to comply with all State and local right-to-know and pollution prevention requirements to the extent that compliance with such laws and requirements is not otherwise already mandated.

I. *Exemption for Particular Federal Facilities.* Section 6–601 of Executive Order 12856 provides that the head of a Federal agency may request from the President in the interest of national security, an exemption from complying with the provision of any or all aspects of the order for particular Federal agency facilities, provided that the procedures set forth in CERCLA section 1200)(1) (42 U.S.C. 9620(j)(1)) are followed.

30–80–80 Public Availability of Information

To the extent permitted by law, and unless such documentation is withheld pursuant to section 6–601 of Executive Order 12856, the public shall be provided ready access to all strategies, plans, and reports required to be prepared by the Department or an OPDIV/STAFFDIV under Executive Order 12856. OPDIVs/STAFFDIVs are encouraged to provide such strategies, plans, and reports to the State and local authorities where their facilities are located for an additional point of access to the public.

30–80–90 Funding and Resources

Each OPDIV/STAFFDIV shall place high priority on obtaining funding and resources needed for implementing all aspects of this chapter and Executive Order 12856, including the pollution prevention strategies, plans, and assessments required by Executive Order 12856, by identifying, requesting, and allocating funds through line-item or direct funding requests. OPDIVs/STAFFDIVs are to make such budget requests as required in the Federal Agency Pollution Prevention and Abatement Planning Process and through budget requests as outlined in Office of Management and Budget (OMB) Circular A–11. OPDIVs/STAFFDIVs should apply, to the maximum extent practicable, a life cycle analysis and total cost accounting principles to all projects needed to meet the requirements of this chapter and Executive Order 12856.

Subject: Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition

30–90–00 Background

A. *Executive Order 13101.* Executive Order 13101 requires Federal agencies to strive to increase the procurement of products that are environmentally preferable or that are made with recovered materials and to set goals to maximize the number of recycled products purchased, relative non-recycled alternatives. Each agency is to establish either a goal for solid waste

prevention and for recycling or a goal for solid waste diversion. It is the national policy to prefer pollution prevention, whenever feasible.

Each Executive agency is to initiate a program, compatible with State and local requirements, to promote cost-effective waste prevention and recycling of reusable materials in all of its facilities. Federal agencies are also to consider cooperative ventures with State and local governments to promote recycling, and waste reduction in the community. The order directs that in acquisition planning and in the evaluation and award contracts, agencies are to consider, among other factors, use of recovered materials, life cycle costs, and recyclability. Each Executive department and major procuring agency must establish model facility demonstration programs that include comprehensive waste prevention and recycling programs and emphasize the procurement of recycled and environmentally preferable products and services. A government-wide award will be presented annually by the White House to the best, most innovative program implementing the objectives of Executive Order 13101 to give greater visibility to these efforts so that they can be incorporated government-wide.

The Executive Order creates a Federal Environmental Executive and establishes high-level Environmental Executive positions within each agency to be responsible for expediting the implementation of the order and statutes that pertain to the Order.

Executive Order 13101 was effective immediately upon its issuance by the President of September 14, 1998. Executive Order 13101 revokes Executive Order 12873, dated October 20, 1993.

B. *Resource Conservation and Recovery Act of 1976 (RCRA).* Executive Order 13101 requires Federal agencies to comply with the sections of RCRA that cover Federal procurement of recycled products. Section 6002(c)(1) of RCRA (42 U.S.C. 6962(c)(1)) imposes a duty on Federal agencies to procure items ''composed of the highest percentage of recovered materials practicable * * * consistent with maintaining a satisfactory level of competition. * * *'' The Administrator of the Environmental Protection Agency (EPA) is required by Section 6002 to develop guidelines that designate those items which are or can be produced with recovered materials and set forth recommended practices with respected to the procurement of recovered materials and items containing such materials. To assist procuring agencies in complying with the requirements of section 6002, EPA has issued guidelines for the Federal procurement of building insulation products containing recovered materials, cement and concrete containing fly ash, paper and paper products containing recovered materials, lubricating oils containing re-refined oil, and retread tires (see 40 CFR part 247).

RCRA 6002 also requires each procuring agency to develop an affirmative procurement program which will assure that items composed of recovered materials will be purchased to the maximum extent practicable and which is consistent with applicable provisions of Federal procurement law.

C. *OFPP Policy Letter 92–4.* RCRA section 6002 (42 U.S.C 6962) requires the Office of Federal Procurement Policy (OFPP) to issue coordinated policies to maximize Federal use of recovered material. Executive Order 13101 requires Federal agencies, consistent with policies established by OFPP Policy Letter 92–4 (57 FR 53362 (1992)), to comply with executive branch policies for the acquisition and use of environmentally preferable products and services and to implement cost-effective procurement preference programs favoring the purchase of these products and services. OFPP Policy Letter 92–4, establishes Executive branch policies for the acquisition and use of environmentally-sound, energy-efficient products and services. The OFPP Policy Letter also provides guidance to be followed by Executive agencies in implementing section 6002 of RCRA.

OFPP Policy Letter requires the implementation of cost-effective procurement preference programs for the purchase of environmentally-sound, energy-efficient products and services. It applies to Federal executive agencies that use appropriated Federal funds for procurement purposes. The Policy Letter provides direction for developing affirmative procurement programs and for the procurement of paper containing post-consumer waste. The letter also implements the Energy Policy and Conservation Act, 42 U.S.C. 6201–6422, and two Executive Orders.

Policy Letter 92–4 directs executive agencies to consider energy conservation and efficiency factors in the procurement of property and services. It also requires Federal agencies to give preference in their procurement programs to practices and products that conserve natural resources and protect the environment. Energy conservation and efficiency data are to be considered, along with estimated cost and other relevant factors, in the development of purchase requests, invitations for bids and solicitations for offers. In addition, with respect to the procurement of consumer products, as defined under Part B, Title III of the Energy Policy and Conservation Act, agencies shall consider energy use/efficiency labels (42 U.S.C. 6294) and prescribed energy efficiency standards (42 U.S.C. 6295) in making purchasing decisions.

The Policy Letter is intended to apply to all products and services. There are differing requirements for the guideline items than for other items.

30–90–05 Applicability

A. *OPDIVs/STAFFDIVs.* Consistent with the demands of efficiency and cost effectiveness, the head of each OPDIV/STAFFDIV shall incorporate waste prevention and recycling in the organization's daily operations and work to increase and expand markets for recovered materials through greater Federal Government preference and demand for such products. Consistent with policies established by Office of Federal Procurement Policy (''OFPP'') Policy Letter 92–4, OPDIVs/STAFFDIVs shall comply with executive branch policies for the acquisition and use of environmentally preferable products and services and implement cost-effective procurement preference programs favoring the purchase of these products and services.

B. *Contractor Operated Facilities.* Contracts that provide for contractor operation of a government-owned or leased facility and/or contracts, awarded after the effective date of Executive Order 13101, shall include provisions that obligate the contractor to comply with the requirements of the order within the scope of its operations. In addition, to the extent permitted by law and where economically feasible, existing contracts should be modified to include provisions that obligate the contractor to comply with the requirements of Executive Order 13101.

C. *Real Property Acquisition and Management.* Within 90 days after the date of this order, and to the extent permitted by law and where economically feasible, OPDIVs/STAFFDIVs shall ensure compliance with the provisions of this order in the acquisition and management of Federally owned and leased space. Agencies shall also include environmental and recycling provisions in the acquisition and management of all leased space and in the construction of new Federal buildings.

D. *Retention of Funds.* The Administrator of General Services shall continue with the program that retains

for the agencies the proceeds from the sale of materials recovered through recycling or waste prevention programs and specifying the eligibility requirements for the materials being recycled.

E. *Agencies in non-GSA Managed Facilities.* OPDIVs/STAFFDIVs, to the extent permitted by law, should develop a plan to retain the proceeds from the sale of materials recovered through recycling or waste prevention programs.

F. *Model Facility Programs.* Each executive agency shall establish a model demonstration program incorporating some or all of the following elements as appropriate. Agencies are encouraged to demonstrate and test new and innovative approaches such as incorporating environmentally preferable and biobased products; increasing the quantity and types of products containing recovered materials; expanding collection programs; implementing source reduction programs; composting organic materials when feasible; and exploring public/private partnerships to develop markets for recovered materials.

G. *Recycling Programs.* Each OPDIV/STAFFDIV shall designate a recycling coordinator for each facility or installation. The recycling coordinator shall implement or maintain waste prevention and recycling programs in the agencies' action plans. Agencies shall also consider cooperative ventures with State and local governments to promote recycling and waste reduction in the community.

30–90–10 Responsibilities

The head of each OPDIV/STAFFDIV shall develop and implement to the maximum extent practicable affirmative procurement programs in accordance with RCRA section 6002 (42 U.S.C. 6962) and Executive Order 13101.

The head of each OPDIV/STAFFDIV shall ensure that the organization meets or exceeds minimum materials content standards when purchasing or causing the purchase of printing and writing paper.

30–90–15 Definitions

A. ''Acquisition'' means the acquiring by contract with appropriated funds for supplies or services (including construction) by and for the use of the Federal Government through purchase or lease, whether the supplies or services are already in existence or must be created, developed, demonstrated, and evaluated. Acquisition begins at the point when HHS organization needs are established and includes the description of requirements to satisfy organization needs, solicitation and selection of sources, award of contracts, contract financing, contract performance, contract administration, and those technical and management functions directly related to the process of fulfilling organization needs by contract.

B. ''Environmentally preferable'' means products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product or service.

C. ''Life Cycle Cost'' means the amortized annual cost of a product, including capital costs, installation costs, operating costs, maintenance costs, and disposal costs discounted over the lifetime of the product.

D. ''Life Cycle Assessment'' means the comprehensive examination of a products environmental and economic effects throughout its lifetime including new material extraction, transportation, manufacturing, use, and disposal.

E. ''Postconsumer material'' means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. ''Post-consumer material'' is a part of the broader category of ''recovered material''.

F. ''Recovered materials'' means waste materials and by-products which have been recovered or diverted from solid waste, but such term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process (42 U.S.C. 6903(19)).

Manufacturing, forest residues, and other wastes also fit within the definition of ''recovered materials''. Such wastes include dry paper and paperboard waste generated after completion of the paper-making process; finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others; fibrous byproducts of harvesting, manufacturing, extractive, or wood-cutting processes; wastes generated by the conversion of goods made from fibrous material; and fibers recovered from waste water which otherwise would enter the waste-stream.

G. ''Recyclability'' means the ability of a product or material to be recovered from, or otherwise diverted from, the solid waste stream for the purpose of recycling.

H. ''Recycling'' means the series of activities, including collection, separation, and processing, by which products or other materials are recovered from the solid waste stream for use in the form of raw materials in the manufacture of new products other than fuel for producing heat or power by combustion.

I. ''Waste prevention'' means any change in the design, manufacturing, purchase or use of materials or products (including packaging) to reduce their amount or toxicity before they become municipal solid waste. Waste prevention also refers to the reuse of products or materials.

J. ''Waste reduction'' means preventing or decreasing the amount of waste being generated through waste prevention, recycling, or purchasing recycled and environmentally preferable products.

K. ''Pollution prevention'' means ''source reduction'' as defined in the Pollution Prevention Act of 1990, and other practices that reduce or eliminate the creation of pollutants through: (a) increased efficiency in the use of raw materials, energy, water, or other resources; or (b) protection of natural resources by conservation.

L. ''Biobased product'' means a commercial or industrial product (other than food or feed: that utilizes biological products or renewable domestic agricultural (plant, animal, and marine) or forestry materials.

M. ''Major procuring agencies'' shall include any executive agency that procures over $50 million per year of goods and services.

30–90–20 Roles of the Federal Environmental Executive and Agency Environmental Executives

A. *Federal Environmental Executive.* The Federal Environmental Executive is designated by the President and is located within the Environmental Protection Agency (''EPA''). The Federal Environmental Executive is authorized to take all actions necessary to ensure that Federal agencies comply with the requirements of Executive Order 13101. The Federal Environmental Executive's responsibilities include:

Identifying and recommending initiatives for government-wide implementation that will promote the purposes of Executive Order 13101, including:

(a) The development of a government-wide Waste Prevention and Recycling Strategic Plan for implementation of Executive Order 13101 and appropriate incentives to encourage the acquisition of recycled and environmentally preferable products by the Federal Government,

(b) Chairing the Task Force under the steering committee established by Executive Order 13101, and

(c) Preparing a biennial report on this Order.

The Federal Environmental Executive will establish committees and work groups to identify, assess, and recommend actions to be taken to fulfill the goals, responsibilities, and initiatives of the Federal Environmental Executive. As these committees and work groups are created, OPDIVs/STAFFDIVs may be requested to designate appropriate personnel in the areas of procurement and acquisition, standards and specifications, electronic commerce, facilities management, waste prevention, and recycling, and others as needed to staff and work on the initiatives of the Executive. OPDIVs/STAFFDIVs shall make their services, personnel and facilities available to the Federal Environmental Executive to the maximum extent practicable for the performance of functions under Executive Order 13101.

B. *HHS Environmental Executive.* Executive Order 13101 requires the Secretary to designate an Agency Environmental Executive, who serves at a level no lower than at the Assistant Secretary level or equivalent. The Agency Environmental Executive is responsible for:

1. Translating the Government-wide Strategic Plan into specific agency and service plans;

2. Implementing the specific agency and service plans;

3. Reporting to the Federal Environmental Executive (FEE) on the progress of plan implementation;

D. Working with the FEE and the Task Force in furthering implementation of this order;

E. Tracking agencies' purchases of EPA-designated guideline items and reporting agencies' purchases of such guideline items to the FEE per the recommendations developed in this Order. Agency acquisition and procurement personnel shall justify in writing to the file and the Agency Environmental Executive (AEE) the rationale for not purchasing such items, above the micropurchase threshold, and submit a plan and timetable for increasing agency purchases of the designated item(s);

F. One year after a product is placed on the USDA Biobased Products List, estimating agencies' purchases of products on the list and reporting agencies' estimated purchases of such products to the Secretary of Agriculture; and

G. Reviewing Departmental programs and acquisitions to ensure compliance with this Order.

30–90–30 Acquisition Planning and Affirmative Procurement Programs

A. *Acquisition Planning.* In developing plans, drawings, work statements, specifications, or other product descriptions, OPDIVs/STAFFDIVs shall consider, as appropriate, a broad range of factors including:

—Elimination of virgin material requirements;

—Use of recovered materials;

—Reuse of product;

—Life cycle cost;

—Recyclability;

—Use of environmentally preferable products;

—Waste prevention (including toxicity reduction or elimination); and

—Ultimate disposal, as appropriate.

These factors should be considered in acquisition planning for all procurements and in the evaluation and award of contracts, as appropriate. Program and acquisition managers should take an active role in these activities.

B. *OPDIV/STAFFDIV Responsibilities.* In accordance with OFPP Policy Letter 924, OPDIVs/STAFFDIVs shall:

1. Identify and procure needed products and services that, all factors considered, are environmentally-sound and energy-efficient;

2. Procure products, including packaging, that contain the highest percentage of recovered materials, and where applicable, post-consumer waste, consistent with performance requirements, availability, price reasonableness, and cost effectiveness;

3. Employ life cycle cost analysis, whenever feasible and appropriate, to assist in making product and service selections;

4. Use product descriptions and specifications that reflect cost-effective use of recycled products, recovered materials, water efficiency devices, remanufactured products and energy-efficient products, materials and practices;

5. Work with private standard setting organizations and participate, pursuant to OMB Circular No. A–119, in the development of voluntary standards and specifications defining environmentally-sound, energy-efficient products, practices and services;

6. Require vendors to certify the percentage of recovered materials used, when contracts are awarded wholly or in part on the basis of utilization of recovered materials;

7. Assure, when drafting or reviewing specifications for required items, that the specifications:

(a) Do not exclude the use of recovered materials;

(b) Do not unnecessarily require the item to be manufactured from virgin materials; and

(c) Require the use of recovered materials and environmentally-sound components to the maximum extent practicable without jeopardizing the intended end use of the item; and

8. Arrange for the procurement of solid waste management services in a manner which maximizes energy and resource recovery. OPDIVs/STAFFDIVs that generate heat, mechanical, or electrical energy from fossil fuel in systems that have the technical capability of using energy or fuel derived from solid waste as a primary or supplementary fuel shall use such capability to the maximum extent practicable.

(C) *Affirmative Procurement Programs.* RCRA section 6002(i) (42 U.S.C. 6962(i)) requires the development of an affirmative procurement program for each item that is covered by an EPA guideline. The affirmative procurement program is to assure that items composed of recovered materials will be purchased to the maximum extent practicable, consistent with applicable provisions of Federal procurement law.

1. OPDIVs/STAFFIDVs shall establish affirmative procurement programs for each of the items covered by guidelines developed by the Environmental Protection Agency pursuant to subsection 6002(e) of RCRA (see 40 CFR part 247). For newly designated items, OPDIVs/STAFFDIVs shall revise their internal programs within one year from the date EPA designated the new items. OPDIVs/STAFFDIVs shall ensure that responsibilities for preparation, implementation and monitoring of affirmative procurement programs are shared between program personnel and procurement personnel. The responsibility to establish an affirmative procurement program applies only to purchases of guideline items costing $10,000 or more or where the quantity of such items, or of functionally-equivalent items, acquired in the course of the preceding year was $10,000 or more.

2. For designated EPA guideline items, excluding biobased products as described in this Executive Order, OPDIVs/STAFFDIVs shall ensure that their affirmative procurement programs require that 100 percent of their purchases of products meet or exceed the EPA guideline standards unless

written justification is provided that a product is not available competitively within a reasonable time frame, does not meet appropriate performance standards, or is only available at an unreasonable price. Written justification is not required for purchases below the micropurchase threshold. For micropurchases, agencies shall provide guidance regarding purchase of EPA-designated guideline items. This guidance should encourage consideration of aggregating purchases when this method would promote economy and efficiency.

3. *Program Elements.* Each OPDIV/STAFFDIV affirmative procurement program, at a minimum, must comply with RCRA subsection 6002(i) and must:

(a) State a preference for the procurement of the item covered by the EPA guideline;

(b) Promote the cost-effective procurement of the covered item;

(c) Require estimates of the total amount of the recovered item used in a contract, certification of the minimum amount actually used, where appropriate, and procedures for verifying the estimates and certifications;

(d) Provide for the annual review and monitoring of the effectiveness of the program; and

(e) Include one of the following options, or a substantially equivalent alternative, to insure that contracts for items covered by the guidelines are awarded, unless a waiver in granted, on the basis of:

• Case-by-case procurement, open competition between products made of virgin materials and products containing recovered materials; preference to be given to the latter, or

• Minimum-content standards, which identify the minimum content of recovered materials that an item must contain to be considered for award.

4. *Waiver.* OPDIVs/STAFFDIVs are to base decisions to waive, or not to procure, EPA guideline items composed of the highest percentages of recovered materials practicable on a determination that such items:

(a) Are not reasonably available within the time required;

(b) Fail to meet the performance standards set forth in applicable specifications or fail to meet the reasonable performances standards of the procuring agencies; or

(c) Are only available at an unreasonable price

5. The Agency Environmental Executive will track purchases of designated EPA guideline items and report purchases of such guideline items to the Federal Environmental Executive when requested.

A. Agencies shall implement the EPA procurement guidelines for re-refined lubricating oil and retread tires. Fleet and commodity managers shall take immediate steps, as appropriate, to procure these items in accordance with section 6002 of RCRA. This provision does not preclude the acquisition of biobased (e.g., vegetable) oils.

B. The FEE shall work to educate executive agencies about the new Department of Defense Cooperative Tire Qualification Program, including the Cooperative Approval Tire List and Cooperative Plant Qualification Program, as they apply to retread tires.

30–90–40 Agency Goals and Reporting Requirements

Each OPDIV/STAFFDIV shall establish either a goal for solid waste prevention and a goal for recycling or a goal for solid waste diversion to be achieved by January 1, 2000. Each agency shall further ensure that the established goals include long-range goals to be achieved by the years 2005 and 2010. These goals shall be submitted to the FEE within 180 days after the date of this Order.

In addition to white paper, mixed paper/cardboard, aluminum, plastic, and glass, agencies should incorporate into their recycling programs efforts to recycle, reuse, or refurbish pallets and collect toner cartridges for re-manufacturing. Agencies should also include programs to reduce or recycle, as appropriate, batteries, scrap metal, and fluorescent lamps and ballasts.

30–90–40 Standards, Specifications and Designation of Items

A. *Designation of items that Contain Recovered Materials.* EPA shall designate Comprehensive Procurement Guidelines containing designated items that are or can be made with recovered materials. OPDIVS/STAFFDIVs shall modify their affirmative procurement programs to require that, to the maximum extent practicable, their purchases of products meet or exceed the EPA guideline standards unless written justification is provided that a product is not available competitively, not available within a reasonable time frame, does not meet appropriate performance standards, or is only available at an unreasonable price. Concurrently with the issuance of the Comprehensive Procurement Guideline, EPA will publish Recovered Material Advisory Notice(s) that present the range of recovered material content levels within which the designated recycled items are currently available. These levels will be updated periodically to reflect changes in market conditions.

B. *Guidance for Environmentally Preferable Products.* In accordance with Executive Order 13101, EPA will issue guidance that Executive agencies should use in making determinations for the preference and purchase of environmentally preferable products. OPDIVs/STAFFDIVs are to use this guidance, to the maximum extent practicable, in identifying and purchasing environmentally preferable products and shall modify their procurement programs by reviewing and revising specifications, solicitation procedures, and policies as appropriate. OPDIVs/STAFFDIVs may develop pilot projects to provide practical information to the EPA for further updating of the guidance.

C. *Designation of Biobased Items by the USDA.* The USDA Biobased Products Coordination Council shall, in consultation with the FEE, issue a Biobased Products List. The biobased Products List shall be published in the **Federal Register** by the USDA within 180 days after the date of this Order and shall be updated biannually after publication to include additional items. Once the Biobased Products List has been published, agencies are encouraged to modify their affirmative procurement program to give consideration to those products.

D. *Minimum Content Standard for Printing and Writing Paper.* Heads of OPDIVs/STAFFDIVs heads shall ensure their organizations meet or exceed the following minimum materials content standards when purchasing or causing the purchase of printing and writing paper:

1. For high speed copier paper, offset paper, forms bond, computer printout paper, carbonless paper, file folders, white woven envelopes, writing and office paper, book paper, cotton fiber paper, and cover stock, the minimum content standard shall be no less than 30 percent post-consumer materials beginning December 31, 1998. If paper containing 30 percent post-consumer material is not reasonably available, does not meet reasonable performance requirements, or is only available at an unreasonable price, then the agency shall purchase paper containing no less than 20 percent post-consumer material. The Steering Committee, in consultation with the AEEs, may revise these levels if necessary.

2. As an alternative to meeting the foregoing standards for all printing and writing papers, the minimum content standard shall be no less than 50 percent recovered materials that are a

waste material byproduct of a finished product other than a paper or textile product which would otherwise be disposed of in a landfill, as determined by the State in which the facility is located.

E. Effective January 1, 1999, no executive branch agency shall purchase, sell, or arrange for the purchase of, printing and writing paper that fails to meet the minimum requirements of this section.

30–90–60 Recycling and Recycling Awareness Programs

A. *Recycling Program.* Each OPDIV/STAFFDIV shall designate a recycling coordinator for each facility or installation. Each OPDIV/STAFFDIV shall initiate a program to promote cost-effective waste prevention and recycling of reusable materials in all of its facilities. Each facility recycling program must be compatible with applicable state and local recycling requirements. Each facility shall also consider cooperative ventures with state and local governments to promote recycling and waste reduction in the community.

B. *Awards Programs.* Each OPDIV/STAFFDIV shall develop an internal awards program, as appropriate, to reward its most innovative environmental programs. Winners of OPDIV/STAFFDIV awards will be eligible for annual HHS and White House awards programs. The White House will annually present an award to the best, most innovative program implementing the objectives of Executive Order 13101.

C. *Model Facility Programs.* Executive Order 13101 requires HHS to establish a model facility demonstration program incorporating some or all of the following elements as appropriate. Agencies are encouraged to demonstrate and test new and innovative approaches such as incorporating environmentally preferable and bio-based products; increasing the quantity and types of products containing recovered materials; expanding collection programs; implementing source reduction programs; composting organic materials when feasible; and exploring public/private partnerships to develop markets for recovered materials.

30–90–70 Real Property Acquisition and Management

Each OPDIV/STAFFDIV, to the extent permitted by law and where economically feasible, shall ensure compliance with the provisions of Executive Order 13101 in the acquisition and management of Federally owned and leased space. Environmental and recycling provisions shall be included in the acquisition of all leased space and in the construction of new Federal buildings.

30–90–80 Training

Each OPDIV/STAFFDIV shall provide training to program management and requesting activities as needed to ensure awareness of the requirements of this Order.

30–90–90 Compliance

Review of Implementation. The HHS Inspector General, at the request of the President's Council on Integrity and Efficiency (PCIE), will periodically review OPDIVs'/STAFFDIVs' affirmative procurement programs and reporting procedures to ensure their compliance with Executive Order 13101.

[FR Doc. 00–3631 Filed 2–24–00; 8:45 am]

BILLING CODE 4150–04–M

Federal Register

Friday,
February 25, 2000

Part IV

Department of Housing and Urban Development

Federal Property Suitable as Facilities To Assist the Homeless; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4557–N–08]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, room 7266, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Clifford Taffet at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register,** the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: Army: Mr. Jeff Holste, Military Programs, U.S. Army Corps of Engineers, Installation Support Center, Planning & Real Property Branch, Attn: CEMP–IP, 7701 Telegraph Road, Alexandria, VA 22315–3862 (703) 428–6318; COE: Ms. Shirley Middleswarth, Army Corps of Engineers, Management & Disposal Division, Pulaski Bldg., Room 4224, 20 Massachusetts Avenue, NW, Washington, DC 20314–1000; (202) 761–0515; Energy: Mr. Tom Knox, Department of Energy, Office of Contract and Resource Management, MA–53, Washington, DC 20585; (202) 586–8715; GSA: Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW, Washington, DC 20405; (202) 501–0052; Interior: Mr. Al Barth, Property Management, Department of the Interior, 1849 C Street, NW, Mail Stop 5512–MIB, Washington, DC 20240; (202) 208–7283; (These are not toll-free numbers).

Dated: February 17, 2000.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Special Needs Assistance Programs.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 2/25/00

Suitable/Available Properties

Buildings (by State)

Alaska

Bldg. 1
National Guard Armory
Wales Co: AK 99783–
Landholding Agency: Army
Property Number: 21200010077
Status: Unutilized
Comment: 1200 sq. ft., needs major repairs, most recent use—classroom, off-site use only

Bldg. 3
National Guard Armory
Bethel Co: AK 99559–
Landholding Agency: Army
Property Number: 21200010078
Status: Unutilized
Comment: presence of asbestos, most recent use—storage, off-site use only

Arizona

Bldg. 72908
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 21200010079
Status: Unutilized
Comment: 16,491 sq. ft., presence of asbestos/lead paint, most recent use—veh. maint., off-site use only

Bldg. 63001
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 21200010080
Status: Unutilized
Comment: 2280 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

8 Bldgs.
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Location: 13570, 15751, 70650, 70651, 87848, 87850, 87851, 87853
Landholding Agency: Army
Property Number: 21200010081
Status: Unutilized

Comment: various sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

2 Bldgs.
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Location: 15542, 15546
Landholding Agency: Army
Property Number: 21200010082
Status: Unutilized
Comment: 552 & 400 sq. ft., presence of asbestos/lead paint, most recent use—restrooms, off-site use only

2 Bldgs.
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Location: 15544, 15552
Landholding Agency: Army
Property Number: 21200010083
Status: Unutilized
Comment: 9713 & 2895 sq. ft., presence of asbestos/lead paint, most recent use—classrooms, off-site use only

Bldg. 15543
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 21200010084
Status: Unutilized
Comment: 416 sq. ft., presence of asbestos/lead paint, most recent use—rec. shelter, off-site use only

7 Bldgs.
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Location: 15550, 70108, 70109, 84004, 84107, 84108, 87852
Landholding Agency: Army
Property Number: 21200010085
Status: Unutilized
Comment: various sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

California

Calexico Border Patrol Station
813 Andrade Avenue
Calexico Co: CA 00000–
Landholding Agency: GSA
Property Number: 54199930007
Status: Excess
Comment: 7420 sq. ft.
GSA Number: 9–J–CA–1539

Florida

Crooked River Lighthouse
Carrabelle Co: Franklin FL 32322–
Landholding Agency: GSA
Property Number: 54199940017
Status: Excess
Comment: Lighthouse on 1.29 acres, possible lead base paint, listed on National Register of Historic Places
GSA Number: 4–U–FL–1165

Georgia

Bldg. T–801
Hunter Army Airfield
Savannah Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200010086
Status: Unutilized
Comment: 4660 sq. ft., needs major repairs, most recent use—armory, off-site use only

Bldg. T–807
Hunter Army Airfield
Savannah Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200010087
Status: Unutilized
Comment: 4660 sq. ft., needs major repairs, most recent use—hq. bldg., off-site use only

Bldg. T–809
Hunter Army Airfield
Savannah Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200010088
Status: Unutilized
Comment: 6461 sq. ft., needs major repairs, most recent use—hq. bldg., off-site use only

Hawaii

Bldg. T–3022F
Schofield Barracks
Wahiawa Co: HI 96786–
Landholding Agency: Army
Property Number: 21200010089
Status: Unutilized
Comment: 142 sq. ft., most recent use—storage, off-site use only

Bldg. P–218
Wheeler Army Airfield
Wahiawa Co: HI 96757–
Landholding Agency: Army
Property Number: 21200010091
Status: Unutilized
Comment: 1028 sq. ft., most recent use—service station, off-site use only

Bldg. S–235
Wheeler Army Airfield
Wahiawa Co: HI 96757–
Landholding Agency: Army
Property Number: 21200010092
Status: Unutilized
Comment: 396 sq. ft., most recent use—storage, off-site use only

Illinois

Army Reserve Center
1881 East Fremont Street
Galesburg Co: Knox IL 61401–
Landholding Agency: GSA
Property Number: 54199940008
Status: Excess
Comment: 2 brick buildings (6117 & 1325 sq. ft.), utilities turned off, need repairs, most recent use—storage
GSA Number: 1–D–IL–720

Kansas

Bldg. S–285
Fort Riley
Manhatten Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 21200010093
Status: Unutilized
Comment: 800 sq. ft., metal bldg. w/o windows, most recent use—storage, off-site use only

Project Residence
Perry Lake Drive
Perry Co: Jefferson KS 66073–9727
Landholding Agency: COE
Property Number: 31199940001
Status: Excess
Comment: 1440 sq. ft., off-site use only

Kentucky

Green River Lock & Dam #3
Rochester Co: Butler KY 42273–
Location: SR 70 west from Morgantown, KY., approximately 7 miles to site
Landholding Agency: COE
Property Number: 31199010022
Status: Unutilized
Comment: 980 sq. ft., 2 story wood frame; two story residence; potential utilities; needs major rehab.

Kentucy River Lock and Dam 3
Pleasureville Co: Henry KY 40057–
Location: SR 421 North from Frankfort, KY. to highway 561, right on 561 approximately 3 miles to site
Landholding Agency: COE
Property Number: 31199010060
Status: Unutilized
Comment: 897 sq. ft., 2 story wood frame; structural deficiencies

Bldg. 1
Kentucky River Lock and Dam
Carrolton Co: Carroll KY 41008–
Location: Take I–71 to Carrolton, KY exit, go east on SR #227 to highway 320, then left for about 1.5 miles to site
Landholding Agency: COE
Property Number: 31199011628
Status: Unutilized
Comment: 1530 sq. ft., 2 story wood frame house; subject to periodic flooding; needs rehab.

Bldg. 2
Kentucky River Lock and Dam
Carrolton Co: Carroll KY 41008–
Location: Take I–71 to Carrolton, KY exit, go east on SR #227 to Highway 320, then left for about 1.5 miles to site
Landholding Agency: COE
Property Number: 31199011629
Status: Unutilized
Comment: 1530 sq. ft., 2 story wood frame house; subject to periodic flooding; needs rehab.

Utility Bldg, Nolin River Lake
Moutardier Recreation Site
Co: Edmonson KY
Landholding Agency: COE
Property Number: 31199320002
Status: Unutilized
Comment: 541 sq. ft., concrete block, off-site use only

Bldg.
Rough River Lake Project
Louisville Co: Breckenridge KY 40232–
Landholding Agency: COE
Property Number: 31199920001
Status: Excess
Comment: 496 sq. ft., concrete block, most recent use—water treatment, off-site use only

Maryland

Bldg. 00318
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200010095
Status: Unutilized
Comment: 3388 sq. ft., most recent use—veh. maint. shop/boiler plant, off-site use only

Bldg. 00334
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200010096
Status: Unutilized

Comment: 1250 sq. ft., most recent use—lab, off-site use only

Bldg. 004602
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200010097
Status: Unutilized
Comment: 5994 sq. ft., most recent use—admin.

Bldg. 00615
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200010098
Status: Unutilized
Comment: 10,953 sq. ft., most recent use—auto maint., off-site use only

Bldg. 00680
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200010099
Status: Unutilized
Comment: 2315 sq. ft., most recent use—storage, off-site use only

Bldg. 01095
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200010100
Status: Unutilized
Comment: 280 sq. ft., most recent use—storage, off-site use only

Bldg. 01120
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200010101
Status: Unutilized
Comment: 1564 sq. ft., most recent use—office/machine shop, off-site use only

Bldg. 03031
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200010102
Status: Unutilized
Comment: 1360 sq. ft., most recent use—heating plant

Bldg. 03036
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200010103
Status: Unutilized
Comment: 11,016 sq. ft., most recent use—storage

Bldg. E1370
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200010104
Status: Unutilized
Comment: 3561 sq. ft., most recent use—storage

Bldg. E1376
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200010105
Status: Unutilized
Comment: 10,338 sq. ft., most recent use—maint. shop

Bldg. E1377
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200010106
Status: Unutilized
Comment: 168 sq. ft., most recent use—storage

Bldg. E1386
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200010107
Status: Unutilized
Comment: 251 sq. ft., most recent use—storage, off-site use only

Bldg. E1461
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200010108
Status: Unutilized
Comment: 331 sq. ft., most recent use—storage, off-site use only

Bldg. E1462
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200010109
Status: Unutilized
Comment: 81 sq. ft., most recent use—safety shelter, off-site use only

Bldg. E2150
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200010110
Status: Unutilized
Comment: 1092 sq. ft., most recent use—storage, off-site use only

Bldg. E3242
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200010111
Status: Unutilized
Comment: 2264 sq. ft., most recent use—admin.

Bldg. E3551
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200010112
Status: Unutilized
Comment: 500 sq. ft., most recent use—access control

Bldg. E5177
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200010113
Status: Unutilized
Comment: 142 sq. ft., most recent use—storage

Bldg. E5189
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200010114
Status: Unutilized
Comment: 400 sq. ft., most recent use—storage

Bldg. E5294
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200010115
Status: Unutilized
Comment: 1263 sq. ft., potential contamination, most recent use—storage

Bldg. E5452
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200010116
Status: Unutilized
Comment: 9623 sq. ft., potential contamination, most recent use—storage

Bldg. E5639
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200010117
Status: Unutilized
Comment: 1048 sq. ft., most recent use—storage

Bldgs. E5688, E56898
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200010118
Status: Unutilized
Comment: 153 sq. ft., most recent use—a/c plant

Bldg. E5858
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200010119
Status: Unutilized
Comment: 1121 sq. ft., most recent use—storage

Bldg. E5936
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200010120
Status: Unutilized
Comment: 11,279 sq. ft., most recent use—storage

Former Orndorff Property
NPS Tract #401–61
Smithsburg Co: Washington MD 21740–
Landholding Agency: Interior
Property Number: 61200010001
Status: Excess
Comment: 1100 sq. ft. frame residence, off-site use only

Massachusetts

Crowell Shed
Tract 41–8673
Chatham Co: Barnstable MA 02633–
Landholding Agency: Interior
Property Number: 61199940001
Status: Unutilized
Comment: 120 sq. ft. storage shed, access via 4-wheel drive only over sand trail, off-site use only

Katz, Tract 17–2724
10 Old King's Highway
Truro Co: Barnstable MA 02666–
Landholding Agency: Interior
Property Number: 61199940002
Status: Unutilized
Comment: 878 sq. ft., cement block, most recent use—residential, off-site use only

Carneilia, Tract 17–2725
12 Old King's Highway

Truro Co: Barnstable MA 02666–
Landholding Agency: Interior
Property Number: 61199940003
Status: Unutilized
Comment: 1391 sq. ft., concrete block, most recent use—residential, off-site use only

Simons, Tract 17–2787
6 Head of Pamet Way
Truro Co: Barnstable MA 02666–
Landholding Agency: Interior
Property Number: 61199940004
Status: Unutilized
Comment: 1600 sq. ft., most recent use—residential, off-site use only

Moss, Tract 17–2788
425 Ocean View Drive
Truro Co: Barnstable MA 02666–
Landholding Agency: Interior
Property Number: 61199940005
Status: Unutilized
Comment: 2496 sq. ft. residence plus 2 outbuildings, off-site use only

Barracks 38, 39
off Old Dew Line Road
Truro Co: Barnstable MA 02666–
Landholding Agency: Interior
Property Number: 61199940006
Status: Unutilized
Comment: 5710 sq. ft., 2-story, presence of asbestos, off-site use only

Gips, Tract 21–4837
188 Way #626
Wellfleet Co: Barnstable MA 02667–
Landholding Agency: Interior
Property Number: 61199940007
Status: Unutilized
Comment: 2015 sq. ft., concrete block, most recent use—residential, off-site use only

Weidlinger 19–4136
Valley Road
Wellfleet Co: Barnstable MA 02667–
Landholding Agency: Interior
Property Number: 61199940008
Status: Unutilized
Comment: 1855 sq. ft., most recent use—residential, off-site use only

Minnesota

GAP Filler Radar Site
St. Paul Co: Rice MN 55101–
Landholding Agency: GSA
Property Number: 54199910009
Status: Excess
Comment: 1266 sq. ft., concrete block, presence of asbestos/lead paint, most recent use—storage, zoning requirements
GSA Number: 1–GR(1)–MN–475

MG Clement Trott Mem. USARC
Walker Co: Cass MN 56484–
Landholding Agency: GSA
Property Number: 54199930003
Status: Excess
Comment: 4320 sq. ft. training center and 1316 sq. ft. vehicle maintenance shop, presence of environmental conditions
GSA Number: 1–D–MN–575

Mississippi

Quarters 183
Natchez Trace Parkway
Kosciusko Co: Attala MS 39090–
Landholding Agency: Interior
Property Number: 61199910004
Status: Excess
Comment: 1121 sq. ft., presence of asbestos, most recent use—residential, off-site use only

Quarters 190
Natchez Trace Parkway
Port Gibson Co: Claiborne MS 39150–
Landholding Agency: Interior
Property Number: 61199910005
Status: Excess
Comment: 1121 sq. ft., presence of asbestos, most recent use—residential, off-site use only

Quarters 194
Natchez Trace Parkway
Ackerman Co: Choctaw MS 39725–
Landholding Agency: Interior
Property Number: 61199910006
Status: Excess
Comment: 1121 sq. ft., presence of asbestos, most recent use—residential, off-site use only

Quarters 258
Natchez Trace Parkway
Carlisle Co: Claiborne MS 39049–
Landholding Agency: Interior
Property Number: 61199910007
Status: Excess
Comment: 1121 sq. ft., presence of asbestos, most recent use—residential, off-site use only

Missouri

Bldg. 82
Kansas City Plant
Bannister Road
Kansas City Co: MO 00000–
Landholding Agency: Energy
Property Number: 41199930031
Status: Excess
Comment: 128 sq. ft., concrete, off-site use only

Bldg. 83
Kansas City Plant
Bannister Road
Kansas City Co: MO 00000–
Landholding Agency: Energy
Property Number: 41199930032
Status: Excess
Comment: 166 sq. ft., concrete, off-site use only

Hardesty Federal Complex
607 Hardesty Avenue
Kansas City Co: Jackson MO 64124–3032
Landholding Agency: GSA
Property Number: 54199940001
Status: Excess
Comment: 7 warehouses and support buildings (540 to 216,000 sq. ft.) on 17.47 acres, major rehab, most recent use—storage/office, utilities easement
GSA Number: 7–G–MO–637

New Jersey

Bldg. 66
Armament Research
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21200010094
Status: Unutilized
Comment: 9000 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—warehouse, off-site use only

Barnegat Recreation Facility
Corner 7th St/Longbeach
Blvd.
Barnegat Light Co: NJ 08006–
Landholding Agency: GSA
Property Number: 54199930001
Status: Surplus
Comment: 2700 sq. ft. cottage on 0.69 acres, presence of asbestos/lead paint, eligible for Historic Register, floodplain, endangered species in area
GSA Number: 1–U–NJ–0641

New Mexico

Roberts, Thomas A
#70, County Rd. 2900
Aztec Co: San Juan NM 87410–
Landholding Agency: Interior
Property Number: 61199910017
Status: Excess
Comment: 2895 sq. ft., most recent use—residential, off-site use only

New York

Bldg. T–23
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200010121
Status: Unutilized
Comment: 4720 sq. ft., most recent use—aces facility, off-site use only

Bldg. T–1006
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200010122
Status: Unutilized
Comment: 1880 sq. ft., most recent use—hq. bldg., off-site use only

Bldg. T–2041
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200010123
Status: Unutilized
Comment: 3464 sq ft., most recent use—maint., off-site use only

Bldg. T–2712
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200010124
Status: Unutilized
Comment: 400 sq. ft., most recent use—storage, off-site use only

Bldg. T–4818
Fort Drum
Ft. Drum Co: Jefferson NY 13602–
Landholding Agency: Army
Property Number: 21200010125
Status: Unutilized
Comment: 1250 sq. ft., most recent use—classroom, off-site use only

''Terry Hill''
County Road 51
Manorville NY
Landholding Agency: GSA
Property Number: 54199830008
Status: Surplus
Comment: 2 block structures, 780/272 sq. ft., no sanitary facilities, most recent use—storage/comm. facility, w/6.19 acres in fee and 4.99 acre easement, remote area
GSA Number: 1–D–NY–864

Binghampton Depot
Nolans Road
Binghampton Co: NY 00000–
Landholding Agency: GSA
Property Number: 54199910015

Status: Excess
Comment: 45,977 sq. ft., needs repair, presence of asbestos, most recent use—office
GSA Number: 1–G–NY–760A

Ohio

Barker Historic House
Willow Island Locks and Dam
Newport Co: Washington OH 45768–9801
Location: Located at lock site, downstream of lock and dam structure
Landholding Agency: COE
Property Number: 31199120018
Status: Unutilized
Comment: 1600 sq. ft. bldg. with ½ acre of land, 2 story brick frame, needs rehab, on Natl Register of Historic Places, no utilities, off-site use only

Dwelling No. 2
Delaware Lake, Highway 23
North
Delaware OH 43015–
Landholding Agency: COE
Property Number: 31199810005
Status: Excess
Comment: 2-story brick w/basement, most recent use—residential, presence of asbestos/lead paint, off-site use only

Lorain Housing
238–240 Augusta Ave.
Lorain OH 44051–
Landholding Agency: GSA
Property Number: 54199840006
Status: Excess
Comment: 3000 sq. ft. duplex, 2-story, good condition, possible lead based paint, existing easements
GSA Number: 1–U–OH–814

Oklahoma

Bldg. T–1931
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200010126
Status: Unutilized
Comment: 807 sq ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–1932
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200010127
Status: Unutilized
Comment: 1620 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. S–4023
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200010128
Status: Unutilized
Comment: 1200 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. S–4063
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200010129
Status: Unutilized
Comment: 4820 sq. ft., possible asbestos/lead paint, most recent use—classroom, off-site use only

Bldg. T–4751
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200010130
Status: Unutilized
Comment: 641 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Water Treatment Plant
Belle Starr, Eufaula Lake
Eufaula Co: McIntosh OK 74432–
Landholding Agency: COE
Property Number: 31199630001
Status: Excess
Comment: 16′x16′, metal, off-site use only

Water Treatment Plant
Gentry Creek, Eufaula Lake
Eufaula Co: McIntosh OK 74432–
Landholding Agency: COE
Property Number: 31199630002
Status: Excess
Comment: 12′x16′, metal, off-site use only

Pennsylvania

Mahoning Creek Reservoir
New Bethlehem Co: Armstrong PA 16242–
Landholding Agency: COE
Property Number: 31199210008
Status: Unutilized
Comment: 1015 sq. ft., 2 story brick residence, off-site use only

Dwelling
Lock & Dam 6, Allegheny
River, 1260 River Rd.
Freeport Co: Armstrong PA 16229–2023
Landholding Agency: COE
Property Number: 31199620008
Status: Unutilized
Comment: 2652 sq. ft., 3-story brick house, in close proximity to Lock and Dam, available for interim use for nonresidential purposes

Govt. Dwelling
Youghiogheny River Lake
Confluence Co: Fayette PA 15424–9103
Landholding Agency: COE
Property Number: 31199640002
Status: Unutilized
Comment: 1421 sq. ft., 2-story brick w/basement, most recent use—residential

Dwelling
Lock & Dam 4, Allegheny
River
Natrona Co: Allegheny PA 15065–2609
Landholding Agency: COE
Property Number: 31199710009
Status: Unutilized
Comment: 1664 sq. ft., 2-story brick residence, needs repair, off-site use only

Dwelling #1
Crooked Creek Lake
Ford City Co: Armstrong PA 16226–8815
Landholding Agency: COE
Property Number: 31199740002
Status: Excess
Comment: 2030 sq. ft., most recent use—residential, good condition, off-site use only

Dwelling #2
Crooked Creek Lake
Ford City Co: Armstrong PA 16226–8815
Landholding Agency: COE
Property Number: 31199740003
Status: Excess
Comment: 3045 sq. ft., most recent use—residential, good condition, off-site use only

Dwelling #3
Crooked Creek Lake
Ford City Co: Armstrong PA 16226–8815
Landholding Agency: COE
Property Number: 31199740004
Status: Excess
Comment: 1847 sq. ft., most recent use—office, good condition, off-site use only

Govt Dwelling
East Branch Lake
Wilcox Co: Elk PA 15870–9709
Landholding Agency: COE
Property Number: 31199740005
Status: Underutilized
Comment: approx. 5299 sq. ft., 1-story, most recent use—residence, off-site use only

Dwelling #1
Loyalhanna Lake
Saltsburg Co: Westmoreland PA 15681–9302
Landholding Agency: COE
Property Number: 31199740006
Status: Excess
Comment: 1996 sq. ft., most recent use—residential, good condition, off-site use only

Dwelling #2
Loyalhanna Lake
Saltsburg Co: Westmoreland PA 15681–9302
Landholding Agency: COE
Property Number: 31199740007
Status: Excess
Comment: 1996 sq. ft., most recent use—residential, good condition, off-site use only

Dwelling #1
Woodcock Creek Lake
Saegertwon Co: Crawford PA 16433–0629
Landholding Agency: COE
Property Number: 31199740008
Status: Excess
Comment: 2106 sq. ft., most recent use—residential, good condition, off-site use only

Dwelling #2
Lock & Dam 6, 1260 River Road
Freeport Co: Armstrong PA 16229–2023
Landholding Agency: COE
Property Number: 31199740009
Status: Excess
Comment: 2652 sq. ft., most recent use—residential, good condition, off-site use only

Dwelling #2
Youghiogheny River Lake
Confluence Co: Fayette PA 15424–9103
Landholding Agency: COE
Property Number: 31199830003
Status: Excess
Comment: 1421 sq. ft., 2-story + basement, most recent use—residential

Residence/Office
Cowanesque Lake Project
Lawrenceville Co: Tioga PA 16929–
Landholding Agency: COE
Property Number: 31199940002
Status: Unutilized
Comment: 1653 sq. ft. residence, and 2,640 sq. ft. storage bldg., need major repairs, no operating sanitary facilities

Tennessee

Cheatham Lock & Dam
Tract D, Lock Road
Nashville Co: Davidson TN 37207–
Landholding Agency: COE
Property Number: 31199520003
Status: Unutilized
Comment: 1100 sq. ft. w/storage bldgs on 7 acres, needs major rehab, contamination issues, 1 acre in fldwy, off-site use only modif. to struct. subj. to approval of St. Hist. Presv. Ofc.

Texas

Bldg. P–1092
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21200010131
Status: Unutilized
Comment: 1080 sq. ft., needs major repairs, possible asbestos/lead paint, most recent use—storage, off-site use only

4 Bldgs.
Fort Sam Houston
S6161, S6162, S6167, S6168
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21200010132
Status: Unutilized
Comment: 900 sq. ft., needs major repairs, most recent use—admin., off-site use only

Bldg. S1448
Fort Sam Houston
San Antonio Co: Bexar TX
Landholding Agency: Army
Property Number: 21200010133
Status: Unutilized
Comment: 4200 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldg. T5001
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21200010134
Status: Unutilized
Comment: 1186 sq. ft., needs major repairs, possible asbestos/lead paint, most recent use—admin., off-site use only

Bldg. S6160
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21200010135
Status: Unutilized
Comment: 1200 sq. ft., needs major repairs, most recent use—admin., off-site use only

Bldg. S6163
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21200010136
Status: Unutilized
Comment: 3200 sq. ft., needs major repairs, most recent use—admin., off-site use only

Bldg. S6169
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 21200010137
Status: Unutilized
Comment: 1800 sq. ft., needs major repairs, most recent use—admin., off-site use only

Formerly Naval Rsv Center
1818 N. Confederate St.
Tyler Co: Smith TX 75702–
Landholding Agency: GSA
Property Number: 54199940019
Status: Surplus
Comment: 11,370 sq. ft. bldg./.96 acres, most recent use—reserve center/office, subject to existing easements
GSA Number: 7–N–TX–984A

Virginia

Bldg. T905
Fort Story
Ft. Story Co: VA 23459–
Landholding Agency: Army
Property Number: 21200010138
Status: Unutilized
Comment: 990 sq. ft., most recent use—housing, off-site use only

Bldg. 850
Fort Eustis
Ft. Eustis Co: VA 23604–
Landholding Agency: Army
Property Number: 21200010140
Status: Unutilized
Comment: 12,000 sq. ft., possible asbestos, most recent use—refuse/garbage bldg., off-site use only

Bldgs. 904, 905
Fort Eustis
Ft. Eustis Co: VA 23604–
Landholding Agency: Army
Property Number: 21200010141
Status: Unutilized
Comment: 2892 sq. ft., presence of asbestos, most recent use—thrift shop/development center, off-site use only

Metal Bldg.
John H. Kerr Dam & Reservoir
Co: Boydton VA
Landholding Agency: COE
Property Number: 31199620009
Status: Excess
Comment: 800 sq. ft., most recent use—storage, off-site use only

Former Keith Residence
Flank March Lane
Spotsylvania Co: VA 22553–
Landholding Agency: Interior
Property Number: 61200010002
Status: Excess
Comment: 1232 sq. ft., frame residence, off-site use only

Former Blunk Residence
Wilderness Drive
Spotsylvania Co: VA 22553–
Landholding Agency: Interior
Property Number: 61200010003
Status: Excess
Comment: 1215 sq. ft., residence, off-site use only

Former Brygider Residence
Plank Road
Spotsylvania Co: VA 22553–
Landholding Agency: Interior
Property Number: 61200010004
Status: Excess
Comment: 4320 sq. ft., residence, off-site use only

Former Houston Residence
Sabre Court
Spotsylvania Co: VA 22553–
Landholding Agency: Interior
Property Number: 61200010005
Status: Excess
Comment: 1050 sq. ft. residence, off-site use only

Former Chason Residence
Wilderness Park Drive
Spotsylvania Co: VA 22553–
Landholding Agency: Interior
Property Number: 61200010006
Status: Unutilized
Comment: 1750 sq. ft. residence, off-site use only

Former Bowen Residence
Cavalry Court
Spotsylvania Co: VA 22553–
Landholding Agency: Interior
Property Number: 61200010007
Status: Excess
Comment: 1512 sq. ft. residence, off-site use only

Former Jones Residence
Plantation Drive
Spotsylvania Co: VA 22553–
Landholding Agency: Interior
Property Number: 61200010008
Status: Excess
Comment: 1040 sq. ft. residence, off-site use only

Former Busic House
Brock Rd.
Spotsylvania Co: VA 22553–
Landholding Agency: Interior
Property Number: 61200010009
Status: Excess
Comment: 4128 sq. ft. residence, off-site use only

Washington

Moses Lake U.S. Army Rsv Ctr
Grant County Airport
Moses Lake Co: Grant WA 98837–
Landholding Agency: GSA
Property Number: 21199630118
Status: Surplus
Comment: 4499 sq. ft./2.86 acres, most recent use—admin., temporary permit from COE granted to an organization, FAA recommended land not be used for residential use due to aircraft noise problem, restriction
GSA Number: 9–D–WA–1141

Bldg. 923
Yakima Training Center
Ellensburg Co: Kittitas WA 98926–
Landholding Agency: COE
Property Number: 31200010004
Status: Unutilized
Comment: 2296 sq. ft. w/basement, poor condition, most recent use—residential, off-site use only

West Virginia

Dwelling 1
Summersville Lake
Summersville Co: Nicholas WV 26651–9802
Landholding Agency: COE
Property Number: 31199810003
Status: Excess
Comment: 1200 sq. ft., presence of asbestos/lead paint, most recent use—residential, off-site use only

Dwelling 2
Sutton Lake
Sutton Co: Braxton WV 26651–9802
Landholding Agency: COE
Property Number: 31199810004
Status: Excess

Comment: 1100 sq. ft., most recent use—residential, off-site use only

Wisconsin

Former Lockmaster's Dwelling
Cedar Locks
4527 East Wisconsin Road
Appleton Co: Outagamie WI 54911–
Landholding Agency: COE
Property Number: 31199011524
Status: Unutilized
Comment: 1224 sq. ft.; 2 story brick/wood frame residence; needs rehab; secured area with alternate access.

Former Lockmaster's Dwelling
Appleton 4th Lock
905 South Lowe Street
Appleton Co: Outagamie WI 54911–
Landholding Agency: COE
Property Number: 31199011525
Status: Unutilized
Comment: 908 sq. ft.; 2 story wood frame residence; needs rehab.

Former Lockmaster's Dwelling
Kaukauna 1st Lock
301 Canal Street
Kaukauna Co: Outagamie WI 54131–
Landholding Agency: COE
Property Number: 31199011527
Status: Unutilized
Comment: 1290 sq. ft.; 2 story wood frame residence; needs rehab; secured area with alternate access.

Former Lockmaster's Dwelling
Appleton 1st Lock
905 South Oneida Street
Appleton Co: Outagamie WI 54911–
Landholding Agency: COE
Property Number: 31199011531
Status: Unutilized
Comment: 1300 sq. ft., potential utilities; 2 story wood frame residence; needs rehab; secured area with alternate access.

Former Lockmaster's Dwelling
Rapid Croche Lock
Lock Road
Wrightstown Co: Outagamie WI 54180–
Location: 3 miles southwest of intersection State Highway 96 and Canal Road.
Landholding Agency: COE
Property Number: 31199011533
Status: Unutilized
Comment: 1952 sq. ft.; 2 story wood frame residence; potential utilities; needs rehab.

Former Lockmaster's Dwelling
Little KauKauna Lock
Little KauKauna
Lawrence Co: Brown WI 54130–
Location: 2 miles souteasterly from intersection of Lost Dauphin Road (County Truck Highway ''D'') and River Street.
Landholding Agency: COE
Property Number: 31199011535
Status: Unutilized
Comment: 1224 sq. ft.; 2 story brick/wood frame residence; needs rehab.

Former Lockmaster's Dwelling
Little Chute, 2nd Lock
214 Mill Street
Little Chute Co: Outagamie WI 54140–
Landholding Agency: COE
Property Number: 31199011536
Status: Unutilized
Comment: 1224 sq. ft., 2 story brick/wood frame residence; potential utilities; needs rehab; secured area with alternate access.

Land (by State)

Arkansas

Parcel 01
DeGray Lake
Section 12
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 31199010071
Status: Unutilized
Comment: 77.6 acres

Parcel 02
DeGray Lake
Section 13
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 31199010072
Status: Unutilized
Comment: 198.5 acres

Parcel 03
DeGray Lake
Section 18
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 31199010073
Status: Unutilized
Comment: 50.46 acres

Parcel 04
DeGray Lake
Section 24, 25, 30, 31
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 31199010074
Status: Unutilized
Comment: 236.37 acres

Parcel 05
DeGray Lake
Section 16
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 31199010075
Status: Unutilized
Comment: 187.30 acres

Parcel 06
DeGray Lake
Section 13
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 31199010076
Status: Unutilized
Comment: 13.0 acres

Parcel 07
DeGray Lake
Section 34
Arkadelphia Co: Hot Spring AR 71923–9361
Landholding Agency: COE
Property Number: 31199010077
Status: Unutilized
Comment: 0.27 acres

Parcel 08
DeGray Lake
Section 13
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 31199010078
Status: Unutilized
Comment: 14.6 acres

Parcel 09
DeGray Lake
Section 12
Arkadelphia Co: Hot Spring AR 71923–9361
Landholding Agency: COE
Property Number: 31199010079
Status: Unutilized
Comment: 6.60 acres

Parcel 10
DeGray Lake
Section 12
Arkadelphia Co: Hot Spring AR 71923–9361
Landholding Agency: COE
Property Number: 31199010080
Status: Unutilized
Comment: 4.5 acres

Parcel 11
DeGray Lake
Section 19
Arkadelphia Co: Hot Spring AR 71923–9361
Landholding Agency: COE
Property Number: 31199010081
Status: Unutilized
Comment: 19.50 acres

Lake Greeson
Section 7, 8 and 18
Murfreesboro Co: Pike AR 71958–9720
Landholding Agency: COE
Property Number: 31199010083
Status: Unutilized
Comment: 46 acres

Kansas

Parcel 1
El Dorado Lake
Section 13, 24, and 18
(See County) Co: Butler KS
Landholding Agency: COE
Property Number: 31199010064
Status: Unutilized
Comment: 61 acres; most recent use—recreation.

Kentucky

Tract 2625
Barkley Lake, Kentucky, and Tennessee
Cadiz Co: Trigg KY 42211–
Location: Adjoining the village of Rockcastle.
Landholding Agency: COE
Property Number: 31199010025
Status: Excess
Comment: 2.57 acres; rolling and wooded.

Tract 2709–10 and 2710–2
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211–
Location: 2½ miles in a southerly direction from the village of Rockcastle.
Landholding Agency: COE
Property Number: 31199010026
Status: Excess
Comment: 2.00 acres; steep and wooded.

Tract 2708–1 and 2709–1
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211–
Location: 2½ miles in a southerly direction from the village of Rockcastle.
Landholding Agency: COE
Property Number: 31199010027
Status: Excess
Comment: 3.59 acres; rolling and wooded; no utilities.

Tract 2800
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211–
Location: 4½ miles in a southeasterly direction from the village of Rockcastle.
Landholding Agency: COE
Property Number: 31199010028
Status: Excess
Comment: 5.44 acres; steep and wooded.

Tract 2915
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211–
Location: 6½ miles west of Cadiz.

Landholding Agency: COE
Property Number: 31199010029
Status: Excess
Comment: 5.76 acres; steep and wooded; no utilities.

Tract 2702
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211–
Location: 1 mile in a southerly direction from the village of Rockcastle.
Landholding Agency: COE
Property Number: 31199010031
Status: Excess
Comment: 4.90 acres; wooded; no utilities.

Tract 4318
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: Trigg Co. adjoining the city of Canton, KY. on the waters of Hopson Creek.
Landholding Agency: COE
Property Number: 31199010032
Status: Excess
Comment: 8.24 acres; steep and wooded.

Tract 4502
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: 3½ miles in a southerly direction from Canton, KY.
Landholding Agency: COE
Property Number: 31199010033
Status: Excess
Comment: 4.26 acres; steep and wooded.

Tract 4611
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: 5 miles south of Canton, KY.
Landholding Agency: COE
Property Number: 31199010034
Status: Excess
Comment: 10.51 acres; steep and wooded; no utilities.

Tract 4619
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: 4½ miles south from Canton, KY.
Landholding Agency: COE
Property Number: 31199010035
Status: Excess
Comment: 2.02 acres; steep and wooded; no utilities.

Tract 4817
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: 6½ miles south of Canton, KY.
Landholding Agency: COE
Property Number: 31199010036
Status: Excess
Comment: 1.75 acres; wooded.

Tract 1217
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: On the north side of the Illinois Central Railroad.
Landholding Agency: COE
Property Number: 31199010042
Status: Excess
Comment: 5.80 acres; steep and wooded.

Tract 1906
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: Approximately 4 miles east of Eddyville, KY.
Landholding Agency: COE
Property Number: 31199010044
Status: Excess
Comment: 25.86 acres; rolling steep and partially wooded; no utilities.

Tract 1907
Barkley Lake, Kentucky and Tennessee
Eddyville Co: KY 42038–
Location: On the waters of Pilfen Creek, 4 miles east of Eddyville, KY
Landholding Agency: COE
Property Number: 31199010045
Status: Excess
Comment: 8.71 acres; rolling steep and wooded; no utilities.

Tract 2001 #1
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: Approximately 4½ miles east of Eddyville, KY.
Landholding Agency: COE
Property Number: 31199010046
Status: Excess
Comment: 47.42 acres; steep and wooded; no utilities.

Tract 2001 #2
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: Approximately 4½ miles east of Eddyville, KY.
Landholding Agency: COE
Property Number: 31199010047
Status: Excess
Comment: 8.64 acres; steep and wooded; no utilities.

Tract 2005
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: Approximately 5½ miles east of Eddyville, KY.
Landholding Agency: COE
Property Number: 31199010048
Status: Excess
Comment: 4.62 acres; steep and wooded; no utilities.

Tract 2307
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: Approximately 7½ miles southeasterly of Eddyville, KY.
Landholding Agency: COE
Property Number: 31199010049
Status: Excess
Comment: 11.43 acres; steep; rolling and wooded; no utilities.

Tract 2403
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: 7 miles southeasterly of Eddyville, KY.
Landholding Agency: COE
Property Number: 31199010050
Status: Excess
Comment: 1.56 acres; steep and wooded; no utilities.

Tract 2504
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: 9 miles southeasterly of Eddyville, KY.
Landholding Agency: COE
Property Number: 31199010051
Status: Excess
Comment: 24.46 acres; steep and wooded; no utilities.

Tract 214
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: South of the Illinois Central Railroad, 1 mile east of the Cumberland River.
Landholding Agency: COE
Property Number: 31199010052
Status: Excess
Comment: 5.5 acres; wooded; no utilities.

Tract 215
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: 5 miles southwest of Kuttawa
Landholding Agency: COE
Property Number: 31199010053
Status: Excess
Comment: 1.40 acres; wooded; no utilities.

Tract 241
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: Old Henson Ferry Road, 6 miles west of Kuttawa, KY.
Landholding Agency: COE
Property Number: 31199010054
Status: Excess
Comment: 1.26 acres; steep and wooded; no utilities.

Tracts 306, 311, 315 and 325
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: 2.5 miles southwest of Kuttawa, KY. on the waters of Cypress Creek.
Landholding Agency: COE
Property Number: 31199010055
Status: Excess
Comment: 38.77 acres; steep and wooded; no utilities.

Tracts 2305, 2306, and 2400–1
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: 6½ miles southeasterly of Eddyville, KY.
Landholding Agency: COE
Property Number: 31199010056
Status: Excess
Comment: 97.66 acres; steep rolling and wooded; no utilities.

Tracts 5203 and 5204
Barkley Lake, Kentucky and Tennessee
Linton Co: Trigg KY 42212–
Location: Village of Linton, KY state highway 1254.
Landholding Agency: COE
Property Number: 31199010058
Status: Excess
Comment: 0.93 acres; rolling, partially wooded; no utilities.

Tract 5240
Barkley Lake, Kentucky and Tennessee
Linton Co: Trigg KY 42212–
Location: 1 mile northwest of Linton, KY.
Landholding Agency: COE
Property Number: 31199010059
Status: Excess
Comment: 2.26 acres; steep and wooded; no utilities.

Tract 4628
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: 4½ miles south from Canton, KY.
Landholding Agency: COE
Property Number: 31199011621
Status: Excess
Comment: 3.71 acres; steep and wooded; subject to utility easements.

Tract 4619–B
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: 4½ miles south from Canton, KY.
Landholding Agency: COE
Property Number: 31199011622
Status: Excess
Comment: 1.73 acres; steep and wooded; subject to utility easements.

Tract 2403–B
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42038–
Location: 7 miles southeasterly from Eddyville, KY.
Landholding Agency: COE
Property Number: 31199011623
Status: Unutilized
Comment: 0.70 acres, wooded; subject to utility easements.

Tract 241–B
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: South of Old Henson Ferry Road, 6 miles west of Kuttawa, KY.
Landholding Agency: COE
Property Number: 31199011624
Status: Excess
Comment: 11.16 acres; steep and wooded; subject to utility easements.

Tracts 212 and 237
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: Old Henson Ferry Road, 6 miles west of Kuttawa, KY.
Landholding Agency: COE
Property Number: 31199011625
Status: Excess
Comment: 2.44 acres; steep and wooded; subject to utility easements.

Tract 215–B
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: 5 miles southwest of Kuttawa
Landholding Agency: COE
Property Number: 31199011626
Status: Excess
Comment: 1.00 acres; wooded; subject to utility easements.

Tract 233
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: 5 miles southwest of Kuttawa
Landholding Agency: COE
Property Number: 31199011627
Status: Excess
Comment: 1.00 acres; wooded; subject to utility easements.

Tract B—Markland Locks & Dam
Hwy 42, 3.5 miles downstream of Warsaw
Warsaw Co: Gallatin KY 41095–
Landholding Agency: COE
Property Number: 31199130002
Status: Unutilized
Comment: 10 acres, most recent use—recreational, possible periodic flooding

Tract A—Markland Locks & Dam
Hwy 42, 3.5 miles downstream of Warsaw
Warsaw Co: Gallatin KY 41095–
Landholding Agency: COE
Property Number: 31199130003
Status: Unutilized
Comment: 8 acres, most recent use—recreational, possible periodic flooding

Tract C—Markland Locks & Dam
Hwy 42, 3.5 miles downstream of Warsaw
Warsaw Co: Gallatin KY 41095–
Landholding Agency: COE
Property Number: 31199130005
Status: Unutilized
Comment: 4 acres, most recent use—recreational, possible periodic flooding

Tract N–819
Dale Hollow Lake & Dam Project
I11will Creek, Hwy 90
Hobart Co: Clinton KY 42601–
Landholding Agency: COE
Property Number: 31199140009
Status: Underutilized
Comment: 91 acres, most recent use—hunting, subject to existing easements

Portion of Lock & Dam No. 1
Kentucky River
Carrolton Co: Carroll KY 41008–0305
Landholding Agency: COE
Property Number: 31199320003
Status: Unutilized
Comment: approx. 3.5 acres (sloping), access monitored

Portion of Lock & Dam No. 2
Kentucky River
Lockport Co: Henry KY 40036–9999
Landholding Agency: COE
Property Number: 31199320004
Status: Underutilized
Comment: aprox. 13.14 acres (sloping), access monitored

Segments 15–19
South Williamson Project
S. Williamson Co: Pike KY 41503–
Landholding Agency: GSA
Property Number: 54199940009
Status: Excess
Comment: 30.4 acres/105 tracts, special floodplain restrictions GSA Number: 4–D–KY–608

Louisiana

Wallace Lake Dam and Reservoir
Shreveport Co: Caddo LA 71103–
Landholding Agency: COE
Property Number: 31199011009
Status: Unutilized
Comment: 10.81 acres; wildlife/forestry; no utilities.

Bayou Bodcau Dam and Reservoir
Haughton Co: Caddo LA 71037–9707
Location: 35 miles Northeast of Shreveport, La.
Landholding Agency: COE
Property Number: 31199011010
Status: Unutilized
Comment: 203 acres; wildlife/forestry; no utilities.

Minnesota

Parcel D
Pine River
Cross Lake Co: Crow Wing MN 56442–
Location: 3 miles from city of Cross Lake, between highways 6 and 371.
Landholding Agency: COE
Property Number: 31199011038
Status: Excess
Comment: 17 acres; no utilities.

Tract 92
Sandy Lake
McGregor Co: Aitkins MN 55760–
Location: 4 miles west of highway 65, 15 miles from city of McGregor.
Landholding Agency: COE
Property Number: 31199011040
Status: Excess
Comment: 4 acres; no utilities.

Tract 98
Leech Lake
Benedict Co: Hubbard MN 56441–
Location: 1 mile from city of Federal Dam, Mn.
Landholding Agency: COE
Property Number: 31199011041
Status: Excess
Comment: 7.3 acres; no utilities.

Mississippi

Parcel 7
Grenada Lake
Sections 22, 23, T24N
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 31199011019
Status: Underutilized
Comment: 100 acres; no utilities; intermittently used under lease—expires 1994.

Parcel 8
Grenada Lake
Section 20, T24N
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 31199011020
Status: Underutilized
Comment: 30 acres; no utilities; intermittently used under lease—expires 1994.

Parcel 9
Grenada Lake
Section 20, T24N, R7E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 31199011021
Status: Underutilized
Comment: 23 acres; no utilities; intermittently used under lease—expires 1994.

Parcel 10
Grenada Lake
Sections 16, 17, 18, T24N, R8E
Grenada Co: Calhoun MS 38901–0903
Landholding Agency: COE
Property Number: 31199011022
Status: Underutilized
Comment: 490 acres; no utilities; intermittently used under lease—expires 1994.

Parcel 2
Grenada Lake
Section 20, and T23N, R5E
Grenada Co: Grenada MS 38901–0903
Landholding Agency: COE
Property Number: 31199011023
Status: Underutilized
Comment: 60 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 3
Grenada Lake
Section 4, T23N, R5E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 31199011024
Status: Underutilized
Comment: 120 acres; no utilities; most recent use—wildlife and forestry management; (13.5 acres/agriculture lease).

Parcel 4
Grenada Lake

Sections 2 and 3. T23N, R5E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 31199011025
Status: Underutilized
Comment: 60 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 5
Grenada Lake
Sections 7, T24N, R6E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 31199011026
Status: Underutilized
Comment: 20 acres; no utilities; most recent use—wildlife and forestry management; (14 acres/agriculture lease).

Parcel 6
Grenada Lake
Sections 9, T24N, R6E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 31199011027
Status: Underutilized
Comment: 80 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 11
Grenada Lake
Section 20, T24N, R8E
Grenada Co: Calhoun MS 38901–0903
Landholding Agency: COE
Property Number: 31199011028
Status: Underutilized
Comment: 30 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 12
Grenada Lake
Section 25, T24N, R7E
Grenada Co: Yalobusha MS 38390–10903
Landholding Agency: COE
Property Number: 31199011029
Status: Underutilized
Comment: 30 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 13
Grenada Lake
Section 34, T24N, R7E
Grenada Co: Yalobusha MS 38903–0903
Landholding Agency: COE
Property Number: 31199011030
Status: Underutilized
Comment: 35 acres; no utilities; most recent use—wildlife and forestry management; (11 acres/agriculture lease).

Parcel 14
Grenada Lake
Section 3, T23N, R6E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 31199011031
Status: Underutilized
Comment: 15 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 15
Grenada Lake
Section 4, T24N, R6E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 31199011032
Status: Underutilized
Comment: 40 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 16
Grenada Lake
Section 9, T23N, R6E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 31199011033
Status: Underutilized
Comment: 70 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 17
Grenada Lake
Section 17, T23N, R7E
Grenada Co: Grenada MS 28901–0903
Landholding Agency: COE
Property Number: 31199011034
Status: Underutilized
Comment: 35 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 18
Grenada Lake
Section 22, T23N, R7E
Grenada Co: Grenada MS 28902–0903
Landholding Agency: COE
Property Number: 31199011035
Status: Underutilized
Comment: 10 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 19
Grenada Lake
Section 9, T22N, R7E
Grenada Co: Grenada MS 38901–0903
Landholding Agency: COE
Property Number: 31199011036
Status: Underutilized
Comment: 20 acres; no utilities; most recent use—wildlife and forestry management.

Missouri

Harry S Truman Dam & Reservoir
Warsaw Co: Benton MO 65355–
Location: Triangular shaped parcel southwest of access road ''B'', part of Bledsoe Ferry Park Tract 150.
Landholding Agency: COE
Property Number: 31199030014
Status: Underutilized
Comment: 1.7 acres; potential utilities.

Ohio

Jersey Tower Site
Tract No. 100 & 100E
Jersey Co: Licking OH 00000–
Landholding Agency: GSA
Property Number: 54199910013
Status: Surplus
Comment: 4.24 acres, subject to preservation of wetlands
GSA Number: 1–W–OH–813

Oklahoma

Pine Creek Lake
Section 27
(See County) Co: McCurtain OK
Landholding Agency: COE
Property Number: 31199010923
Status: Unutilized
Comment: 3 acres; no utilities; subject to right of way for Oklahoma State Highway 3.

Pennsylvania

Mahoning Creek Lake
New Bethlehem Co: Armstrong PA 16242–9603
Location: Route 28 north to Belknap, Road #4
Landholding Agency: COE
Property Number: 31199010018
Status: Excess
Comment: 2.58 acres; steep and densely wooded.

Tracts 610, 611, 612
Shenango River Lake
Sharpsville Co: Mercer PA 16150–
Location: I–79 North, I–80 West, Exit Sharon. R18 North 4 miles, left on R518, right on Mercer Avenue.
Landholding Agency: COE
Property Number: 31199011001
Status: Excess
Comment: 24.09 acres; subject to flowage easement

Tracts L24, L26
Crooked Creek Lake
Co: Armstrong PA 03051–
Location: Left bank—55 miles downstream of dam.
Landholding Agency: COE
Property Number: 31199011011
Status: Unutilized
Comment: 7.59 acres; potential for utilities.

Portion of Tract L–21A
Crooked Creek Lake, LR 03051
Ford City Co: Armstrong PA 16226–
Landholding Agency: COE
Property Number: 31199430012
Status: Unutilized
Comment: Approximately 1.72 acres of undeveloped land, subject to gas rights

Puerto Rico

Bahia Rear Range Light
Ocean Drive
Catano Co: PR 00632–
Landholding Agency: GSA
Property Number: 54199940003
Status: Excess
Comment: 0.167 w/skeletal tower, fenced, aid to navigation
GSA Number: 1–T–PR–508

Tennessee

Tract 6827
Barkley Lake
Dover Co: Stewart TN 37058–
Location: 2½ miles west of Dover, TN.
Landholding Agency: COE
Property Number: 31199010927
Status: Excess
Comment: .57 acres; subject to existing easements.

Tracts 6002–2 and 6010
Barkley Lake
Dover Co: Stewart TN 37058–
Location: 3½ miles south of village of Tabaccoport.
Landholding Agency: COE
Property Number: 31199010928
Status: Excess
Comment: 100.86 acres; subject to existing easements.

Tract 11516
Barkley Lake
Ashland City Co: Dickson TN 37015–
Location: ½ mile downstream from Cheatham Dam
Landholding Agency: COE
Property Number: 31199010929
Status: Excess
Comment: 26.25 acres; subject to existing easements.

Tract 2319
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford TN 37130–
Location: West of Buckeye Bottom Road
Landholding Agency: COE
Property Number: 31199010930

Status: Excess
Comment: 14.48 acres; subject to existing easement.

Tract 2227
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford TN 37130–
Location: Old Jefferson Pike
Landholding Agency: COE
Property Number: 31199010931
Status: Excess
Comment: 2.27 acres; subject to existing easements.

Tract 2107
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford TN 37130–
Location: Across Fall Creek near Fall Creek camping area.
Landholding Agency: COE
Property Number: 31199010932
Status: Excess
Comment: 14.85 acres; subject to existing easements.

Tracts 2601, 2602, 2603, 2604
Cordell Hull Lake and Dam Project
Doe Row Creek
Gainesboro Co: Jackson TN 38562–
Location: TN Highway 56
Landholding Agency: COE
Property Number: 31199010933
Status: Unutilized
Comment: 11 acres; subject to existing easements.

Tract 1911
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford TN 37130–
Location: East of Lamar Road
Landholding Agency: COE
Property Number: 31199010934
Status: Excess
Comment: 15.31 acres; subject to existing easements.

Tract 2321
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford TN 37130–
Location: South of Old Jefferson Pike
Landholding Agency: COE
Property Number: 31199010935
Status: Excess
Comment: 12 acres; subject to existing easements.

Tract 7206
Barkley Lake
Dover Co: Stewart TN 37058–
Location: 2½ miles SE of Dover, TN.
Landholding Agency: COE
Property Number: 31199010936
Status: Excess
Comment: 10.15 acres; subject to existing easements.

Tracts 8813, 8814
Barkley Lake
Cumberland Co: Stewart TN 37050–
Location: 1½ miles East of Cumberland City.
Landholding Agency: COE
Property Number: 31199010937
Status: Excess
Comment: 96 acres; subject to existing easements.

Tract 8911
Barkley Lake
Cumberland City Co: Montgomery TN 37050–
Location: 4 miles east of Cumberland City.
Landholding Agency: COE
Property Number: 31199010938
Status: Excess
Comment: 7.7 acres; subject to existing easements.

Tract 11503
Barkley Lake
Ashland City Co: Cheatham TN 37015–
Location: 2 miles downstream from Cheatham Dam.
Landholding Agency: COE
Property Number: 31199010939
Status: Excess
Comment: 1.1 acres; subject to existing easements.

Tract 11523, 11524
Barkley Lake
Ashland City Co: Cheatham TN 37015–
Location: 2½ miles downstream from Cheatham Dam.
Landholding Agency: COE
Property Number: 31199010940
Status: Excess
Comment: 19.5 acres; subject to existing easements.

Tract 6410
Barkley Lake
Bumpus Mills Co: Stewart TN 37028–
Location: 4½ miles SW. of Bumpus Mills.
Landholding Agency: COE
Property Number: 31199010941
Status: Excess
Comment: 17 acres; subject to existing easements.

Tract 9707
Barkley Lake
Palmyer Co: Montgomery TN 37142–
Location: 3 miles NE of Palmyer, TN. Highway 149
Landholding Agency: COE
Property Number: 31199010943
Status: Excess
Comment: 6.6 acres; subject to existing easements.

Tract 6949
Barkley Lake
Dover Co: Stewart TN 37058–
Location: 1½ miles SE of Dover, TN.
Landholding Agency: COE
Property Number: 31199010944
Status: Excess
Comment: 29.67 acres; subject to existing easements.

Tracts 6005 and 6017
Barkley Lake
Dover Co: Stewart TN 37058–
Location: 3 miles south of Village of Tobaccoport.
Landholding Agency: COE
Property Number: 31199011173
Status: Excess
Comment: 5 acres; subject to existing easements.

Tracts K–1191, K–1135
Old Hickory Lock and Dam
Hartsville Co: Trousdale TN 37074–
Landholding Agency: COE
Property Number: 31199130007
Status: Underutilized
Comment: 92 acres (38 acres in floodway), most recent use—recreation

Tract A–102
Dale Hollow Lake & Dam Project
Canoe Ridge, State Hwy 52
Celina Co: Clay TN 38551–
Landholding Agency: COE
Property Number: 31199140006
Status: Underutilized
Comment: 351 acres, most recent use—hunting, subject to existing easements

Tract A–102
Dale Hollow Lake & Dam Project
Swann Ridge, State Hwy No. 53
Celina Co: Clay TN 38551–
Landholding Agency: COE
Property Number: 31199140007
Status: Underutilized
Comment: 883 acres, most recent use—hunting, subject to existing easements

Tracts A–20, A–21
Dale Hollow Lake & Dam Project
Red Oak Ridge, State Hwy No. 53
Celina Co: Clay TN 38551–
Landholding Agency: COE
Property Number: 31199140008
Status: Underutilized
Comment: 821 acres, most recent use—recreation, subject to existing easements

Tract D–185
Dale Hollow Lake & Dam Project
Ashburn Creek, Hwy No. 53
Livingston Co: Clay TN 38570–
Landholding Agency: COE
Property Number: 31199140010
Status: Underutilized
Comment: 883 acres, most recent use—hunting, subject to existing easements

Utah

Monticello Mill Tailings Site
Monticello Co: San Juan UT 00000–
Landholding Agency: GSA
Property Number: 54199940020
Status: Excess
Comment: 383.24 acres, listed as an EPA NPL Site—clean up in process, floodplain
GSA Number: 7–B–UT–431–M

Suitable/Unavailable Properties

Buildings (by State)

Alaska

10 Office Buildings
Anchorage Native Medical Center
255 Gambell St.
Anchorage Co: Anchorage AK 99501–
Landholding Agency: GSA
Property Number: 54199710002
Status: Surplus
Comment: high maintenance costs, does not meet Fed. seismic standards, presence of asbestos, PCB's, lead paint
GSA Number: 9–F–AK–750

3 Storage Buildings
Anchorage Native Medical Center
255 Gambell St.
Anchorage Co: Anchorage AK 99501–
Landholding Agency: GSA
Property Number: 54199710003
Status: Surplus
Comment: high maintenance costs, does not meet Fed. seismic standards, presence of asbestos, PCB's, lead paint
GSA Number: 9–F–AK–750

1 Hospital
Anchorage Native Medical Center
255 Gambell St.
Anchorage Co: Anchorage AK 99501–
Landholding Agency: GSA
Property Number: 54199710004
Status: Surplus

Comment: 173,336 sq. ft., high maintenance costs, does not meet Fed. seismic standards, presence of asbestos, PCB's, lead paint
GSA Number: 9–F–AK–750

California

Santa Fe Flood Control Basin
Irwindale Co: Los Angeles CA 91706–
Landholding Agency: COE
Property Number: 31199011298
Status: Unutilized
Comment: 1400 sq. ft., 1 story stucco; needs rehab; termite damage; secured area with alternate access.

112 Bldgs.—Skaggs Island
Naval Security Group
Skaggs Island Co: Sonoma CA
Landholding Agency: GSA
Property Number: 54199730001
Status: Excess
Comment: 32–13,374 sq. ft., temp. quonset huts to perm. wood/concrete most recent use—housing, admin., support facilities, remote location, below sea level, high maintenance
GSA Number: 9–N–CA–1488

Marine Culture Laboratory
Granite Canyon
34500 Coast Highway
Monterey CA 93940–
Landholding Agency: GSA
Property Number: 54199830011
Status: Surplus
Comment: 3297 sq. ft. office bldg. & lab on 4.553 acres, envir. clean-up plans scheduled
GSA Number: 9–C–CA–1499

Natl Weather Svc Station
Blue Canyon Airport
Emigrant Gap CA 95715–
Landholding Agency: GSA
Property Number: 54199840007
Status: Surplus
Comment: 3140 sq. ft., presence of asbestos, most recent use—ofc/residential/storage, land agreements w/U.S. Forest Service exist, special use permit
GSA Number: 9–C–CA–1521

Naval & Marine Corps Readiness
1700 Stadium Way
Los Angeles Co: Los Angeles CA 90012–
Landholding Agency: GSA
Property Number: 54199910005
Status: Excess
Comment: 133,484 sq. ft., suffered seismic damage, presence of asbestos/lead paint, historic convenants, 45% of property will revert to City
GSA Number: 9–N–CA–1523

Eureka Federal Building
5th & H Streets
Eureka Co: CA 95501–
Landholding Agency: GSA
Property Number: 54199930024
Status: Excess
Comment: 23,959 gross sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—post office/office, listed on the National Register of Historic Places
GSA Number: 9–G–CA–1529

Delaware

Unaccompanied Pers. Housing
800 Inlet Road
Rehoboth Beach Co: Sussex DE 19971–2698
Landholding Agency: GSA
Property Number: 54199840009
Status: Excess
Comment: 3600 sq. ft., 2-story, termite damage, most recent use—housing, off-site use only
GSA Number: 4–U–DE–462

District of Columbia

William A. White Bldg.
2700 Martin Luther King Ave., SE
Washington Co: DC 20032–
Landholding Agency: GSA
Property Number: 54199930006
Status: Excess
Comment: 150,952 sq. ft. on 2 acres, needs repair, presence of asbestos/lead paint, controlled access, mental hospital campus, property was published in error as available on 2/11/00.
GSA Number: 4–F–DC–479

Georgia

Federal Building
109 N. Main Street
Lafayette Co: Walker GA 30728–
Landholding Agency: GSA
Property Number: 54199910014
Status: Excess
Comment: approx. 4761 sq. ft., does not meet ADA requirements for accessibility, easements/reservations restrictions, historic protective covenants
GSA Number: 4–G–GA–858

Idaho

Bldg. CFA–613
Central Facilities Area
Idaho National Engineering Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199630001
Status: Unutilized
Comment: 1219 sq. ft., most recent use—sleeping quarters, presence of asbestos, off-site use only

Illinois

Bldg. 7
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 31199010001
Status: Unutilized
Comment: 900 sq. ft.; 1 floor wood frame; most recent use—residence.

Bldg. 6
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 31199010002
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most recent use—residence.

Bldg. 5
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 31199010003
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most recent use—residence.

Bldg. 4
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 31199010004
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most recent use—residence.

Bldg. 3
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 31199010005
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame.

Bldg. 2
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 31199010006
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most recent use—residence.

Bldg. 1
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 31199010007
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most recent use—residence.

Radar Communication Link
½ mi east of 116th St.
Co: Will IL
Landholding Agency: GSA
Property Number: 54199820013
Status: Excess
Comment: 297 sq. ft. concrete block bldg. with radar tower antenna, possible lead based paint, most recent use—air traffic control
GSA Number: 2–U–IL–696

Natl Weather Svc. Meter. Obs.
Morris Blacktop Rd.
Miller Township Co: LaSalle IL 61341–
Landholding Agency: GSA
Property Number: 54199820014
Status: Excess
Comment: 1400 sq. ft. office bldg. & 500 sq. ft. garage
GSA Number: 1–C–IL–708

Homewood Natl Guard Facility
1300 West 187th Street
Homewood Co: Cook IL 60430–
Landholding Agency: GSA
Property Number: 54199940002
Status: Excess
Comment: 4 old barracks, 5 storage bldgs., 1 guard house, need major repairs, property was published in error as available on 2/11/00
GSA Number: 5–D–IL–651

Indiana

Vincennes Federal Building
501 Busseron St.
Vincennes Co: Knox IN 47591–

Landholding Agency: GSA
Property Number: 54199820015
Status: Excess
Comment: 22,000 sq. ft., presence of asbestos, property is historically significant, most recent use—office bldg.
GSA Number: 1–G–IN–592

Former Army Reserve Center
White Oak Park
LaPorte Co: LaPorte IN 00000–
Landholding Agency: GSA
Property Number: 54199920003
Status: Excess
Comment: two—1600 sq. ft. picnic shelters, 4358 sq. ft. paved road, 200 sq. ft. rest room
GSA Number: 1–GR(1)–IN–430E

Maryland

Washington Court Apartments
Maryland Rt. 755
Edgewood Co: Harford MD 21040–
Landholding Agency: GSA
Property Number: 54199940005
Status: Excess
Comment: 55 bldgs. housing 276 apartments, (2 to 4 bedrooms), need repairs, presence of lead based paint, property published in error as available on 2/11/00
GSA Number: 4–D–MD–559

Former Physioc Property
NPS Tract 402–29
Judtown Co: Washington MD 21713–
Landholding Agency: Interior
Property Number: 61199820005
Status: Excess
Comment: 227 sq. ft. stone cabin, off-site use only

Cheltenham Naval Comm. Dtchmt.
9190 Commo Rd., AKA 7700
Redman Rd.
Clinton Co: Prince George MD 20397–5520
Landholding Agency: GSA
Property Number: 77199330010
Status: Excess
Comment: 32 bldgs., various sq. ft., most recent use—admin/comm, & 39 family housing units on 230.35 acres, presence of lead paint/asbestos, 20.09 acres leased to County w/improvements
GSA Number: 4–N–MD–544A

Massachusetts

Ziegler House
National Park, Virginia Road
Lincoln Co: Middlesex MA 10073–
Landholding Agency: Interior
Property Number: 61199830001
Status: Unutilized
Comment: 1661 sq. ft., residential

Michigan

Detroit Job Corps Center
10401 E. Jefferson & 1438
Garland;
1265 St. Clair
Detroit Co: Wayne MI 42128–
Landholding Agency: GSA
Property Number: 54199510002
Status: Surplus
Comment: Main bldg. is 80,590 sq. ft., 5-story, adjacent parking lot, 2nd bldg. on St. Clair Ave. is 5140 sq. ft., presence of asbestos in main bldg., to be vacated 8/97
GSA Number: 2–L–MI–757

Parcel 1
Old Lifeboat Station
East Tawas Co: Iosco MI
Landholding Agency: GSA
Property Number: 54199730011
Status: Excess
Comment: 2062 sq. ft. station bldg., garage, boathouse, oilhouse, possible asbestos/lead paint, eligible for listing on National Register of Historic Places
GSA Number: 1–UU–MI–500

S. Haven Keeper's Dwelling
91 Michigan Ave.
South Haven Co: Van Buren MI 49090–
Landholding Agency: GSA
Property Number: 54199740012
Status: Excess
Comment: 3257 sq. ft. 2-story dwelling and 800 sq. ft. garage, presence of asbestos/lead paint
GSA Number: 1–U–MI–475C

Mississippi

Federal Building
236 Sharkey Street
Clarksdale Co: Coahoma MS 38614–
Landholding Agency: GSA
Property Number: 54199910004
Status: Excess
Comment: 15,233 sq. ft., courthouse
GSA Number: 4–G–MS–553

New York

Reserve Center
Sgt. H. Grover H. O'Connor
USARC
303 N. Lackawanna Street
Wayland Co: Steuben NY 14572–
Landholding Agency: GSA
Property Number: 21199710239
Status: Unutilized
Comment: 2 bldgs., 17, 102 sq. ft. and 1,325 sq. ft., 1-story
GSA Number: 1–D–NY–866

North Carolina

Federal Building
146 North Main Street
Rutherfordton Co: Rutherford NC 28139–
Landholding Agency: GSA
Property Number: 54199730022
Status: Excess
Comment: 4919 sq. ft., most recent use—office, good condition
GSA Number: 4–G–NC–727

Tarheel Army Missile Plant
Burlington Co: Alamance NC 27215–
Landholding Agency: GSA
Property Number: 54199820002
Status: Excess
Comment: 31 bldgs., presence of asbestos, most recent use—admin., warehouse, production space and 10.04 acres parking area, contamination at site—environmental clean up in process
GSA Number: 4–D–NC–593

Coinjock Station
Canal Road
Coinjock Co: Currituck NC 27293–
Landholding Agency: GSA
Property Number: 54199840010
Status: Excess
Comment: 4 bldgs., most recent use—storage/office
GSA Number: 4–U–NC–734

Bodie Island Lighttower
Cape Hatteras
Nags Head Co: Dare NC 27959–
Landholding Agency: GSA
Property Number: 54199910003
Status: Excess
Comment: lighttower, restricted use
GSA Number: 4–U–NC–733

Ohio

Bldg.—Berlin Lake
7400 Bedell Road
Berlin Center Co: Mahoning OH 44401–9797
Landholding Agency: COE
Property Number: 31199640001
Status: Unutilized
Comment: 1420 sq. ft., 2-story brick w/garage and basement, most recent use—residential, secured w/alternate access

Zanesville Federal Building
65 North Fifth Street
Zanesville Co: Muskingum OH
Landholding Agency: GSA
Property Number: 54199520018
Status: Excess
Comment: 18750 sq. ft., most recent use—office, possible asbestos, eligible for listing on the Natl Register of Historic Places
GSA Number: 2–G–OH–781A

Oklahoma

Fed. Bldg./Courthouse
N. Washington & Broadway Streets
Ardmore Co: Carter OK 73402–
Landholding Agency: GSA
Property Number: 54199820009
Status: Excess
Comment: 4000 sq. ft. bldg. w/parking, 3 story plus basement, most recent use—office, subject to historic preservation covenants
GSA Number: 7–G–TX–559

Oregon

Gus Solomon U.S. Courthouse
620 SW Main Street
Portland Co: Multnomah OR 97205–
Landholding Agency: GSA
Property Number: 54199730023
Status: Underutilized
Comment: 15,775 sq. ft., 7-story, does not meet Federal seismic requirements, National Register of Historic Places, pending lease
GSA Number: 7–G–OR–724

Pennsylvania

Tract 353
Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338–
Landholding Agency: COE
Property Number: 31199430019
Status: Unutilized
Comment: 812 sq. ft., 2-story, log structure, needs repair, most recent use—residential, if used for habitation must be flood proofed or removed off-site

Tract 403A
Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338–
Landholding Agency: COE
Property Number: 31199430021
Status: Unutilized
Comment: 620 sq. ft., 2-story, needs repair, most recent use—residential, if used for habitation must be flood proofed or removed off-site.

Tract 403B
Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338–

Landholding Agency: COE
Property Number: 31199430022
Status: Unutilized
Comment: 1600 sq. ft., 2-story, brick structure, needs repair, most recent use—residential, if used for habitation must be flood proofed or removed off-site.

Tract 403C
Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338–
Landholding Agency: COE
Property Number: 31199430023
Status: Unutilized
Comment: 672 sq. ft., 2-story carriage house/stable barn type structure, needs repair, most recent use—storage/garage, if used for habitation must be flood proofed or removed

Tract 434
Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338–
Landholding Agency: COE
Property Number: 31199430024
Status: Unutilized
Comment: 1059 sq. ft., 2-story, wood frame, 2 apt. units, historic property, if used for habitation must be flood proofed or removed off-site

Tract No. 224
Grays Landing Lock & Dam Project
Greensboro Co: Green PA 15338–
Landholding Agency: COE
Property Number: 31199440001
Status: Unutilized
Comment: 1040 sq. ft., 2 story bldg., needs repair, historic struct., flowage easement, if habitation is desired property will be required to be flood proofed or removed off site

Rices Landing
Tracts A–L, & 1–4
Old Lock & Dam #6
Rices Landing Co: Greene PA 15357–
Landholding Agency: GSA
Property Number: 54199930009
Status: Excess
Comment: 2 residences—1400 sq. ft. ea., need repairs, 1 metal warehouse, 1 shed, possible asbestos/lead paint, property published in error as available on 2/11/00
GSA Number: 4–D–PA–0786

Tennessee

3 Facilities, Guard Posts
Volunteer Army Ammunition Plant
Chattanooga Co: Hamilton TN 37421–
Landholding Agency: GSA
Property Number: 54199930011
Status: Surplus
Comment: 48–64 sq. ft., most recent use—access control, property was published in error as available on 2/11/00
GSA Number: 4–D–TN–594F

4 Bldgs.
Volunteer Army Ammunition Plant
Railroad System Facilities
Chattanooga Co: Hamilton TN 37421–
Landholding Agency: GSA
Property Number: 54199930012
Status: Surplus
Comment: 144–2,420 sq. ft., most recent use—storage/rail weighing facilities/dock, potential use restrictions, property was published in error as available on 2/11/00
GSA Number: 4–D–TN–594F

8 Bldgs.
Volunteer Army Ammunition Plant
Missile Assembly
Chattanooga Co: Hamilton TN 37421–
Landholding Agency: GSA
Property Number: 54199930013
Status: Surplus
Comment: concrete block bldgs. on approx. 100 acres, most recent use—assembly/storage/buffer, potential use restrictions, property was published in error as available on 2/11/00
GSA Number: 4–D–TN–594F

200 bunkers
Volunteer Army Ammunition Plant
Storage Magazines
Chattanooga Co: Hamilton TN 37421–
Landholding Agency: GSA
Property Number: 54199930014
Status: Surplus
Comment: approx. 200 concrete bunkers covering a land area of approx. 4000 acres, most recent use—storage/buffer area, potential use restrictions, property was published in error as available on 2/11/00
GSA Number: 4–D–TN–594F

Bldg. 232
Volunteer Army Ammunition Plant
Chattanooga Co: Hamilton TN 37421–
Landholding Agency: GSA
Property Number: 54199930020
Status: Surplus
Comment: 10,000 sq. ft., most recent use—office, presence of asbestos, approx. 5 acres associated w/bldg., potential use restrictions, property was published in error as available on 2/11/00
GSA Number: 4–D–TN–594F

2 Laboratories
Volunteer Army Ammunition Plant
Chattanooga Co: Hamilton TN 37421–
Landholding Agency: GSA
Property Number: 54199930021
Status: Surplus
Comment: 2000–12,000 sq. ft., potential use/lease restrictions, property was published in error as available on 2/11/00
GSA Number: 4–D–TN–594F

3 Facilities
Volunteer Army Ammunition Plant
Water Distribution Facilities
Chattanooga Co: Hamilton TN 37421–
Landholding Agency: GSA
Property Number: 54199930022
Status: Surplus
Comment: 256–15,204 sq. ft., 35.86 acres associated w/bldgs., most recent use—water distribution system, potential use/lease restrictions, property was published in error as available on 2/11/00
GSA Number: 4–D–TN–594F

Texas

Fairfield Federal Building
E. Main & Keechi St.
Fairfield Co: Freestone TX 75840–1556
Landholding Agency: GSA
Property Number: 54199920006
Status: Excess
Comment: 10,314 sq. ft., needs repair, most recent use—post office/Fed Bldg.
GSA Number: 7–G–TX–1051

Virginia

Army Reserve Center
1 West Church St.
Martinsville Co: Henry VA 24112–
Landholding Agency: GSA
Property Number: 54199930010
Status: Excess
Comment: 12,225 sq. ft., 3 stories, most recent use—office, 2,250 sq. ft., leased to Postal Service, property was published in error as available on 2/11/00
GSA Number: 4–D–VA–719

Washington

747 Building Complex
805 Goethals Drive
Richland Co: Benton WA 99352–
Landholding Agency: GSA
Property Number: 54199820005
Status: Surplus
Comment: 4 bldgs. (2 bldgs. utilized w/lease provisions), most recent use—labs/offices, presence of asbestos/lead paint
GSA Number: 9–B–WA–1145

Wisconsin

Former Lockmaster's Dwelling
DePere Lock
100 James Street
De Pere Co: Brown WI 54115–
Landholding Agency: COE
Property Number: 31199011526
Status: Unutilized
Comment: 1224 sq. ft.; 2 story brick/wood frame residence; needs rehab; secured area with alternate access.

Wausau Federal Building
317 First Street
Wausau Co: Marathon WI 54401–
Landholding Agency: GSA
Property Number: 54199820016
Status: Excess
Comment: 30,500 sq. ft., presence of asbestos, eligible for listing on the Natl Register of Historic Places, most recent use—office
GSA Number: 1–G–WI–593

Army Reserve Center
401 Fifth Street
Kewaunee Co: WI 54216–1838
Landholding Agency: GSA
Property Number: 54199940004
Status: Excess
Comment: 2 admin. bldgs. (15,593 sq. ft.), 1 garage (1325 sq. ft.), need repairs, property was published in error as available on 2/11/00
GSA Number: 1–D–WI–597

Land (by State)

California

Mira Loma Parcel
March Comm. Annex No. 2
Mira Loma Co: Riverside CA
Landholding Agency: GSA
Property Number: 54199910007
Status: Excess
Comment: 0.81 acres, potential utilities
GSA Number: 9–G–CA–1505

Reclamation Unit LC–2, Par. B
Texas Ave/Old Lewiston Rd
Lewiston Co: Trinity CA
Landholding Agency: GSA
Property Number: 54199910008
Status: Excess
Comment: 28.3 acres with old barn in poor condition
GSA Number: 9–I–CA–1509

Redding Reserve Site
Redding Co: Shasta CA 96049–

Landholding Agency: GSA
Property Number: 54199920001
Status: Unutilized
Comment: 5.13 acres
GSA Number: 9–D–CA–1524

Illinois

Lake Shelbyville
Shelbyville Co: Shelby & Moultrie IL 62565–9804
Landholding Agency: COE
Property Number: 31199240004
Status: Unutilized
Comment: 5 parcels of land equalling 0.70 acres, improved w/4 small equipment storage bldgs. and a small access road, easement restrictions.

Kentucky

Portion of Tract 3300
Fishtrap Lake
Co: Pike KY 41548–
Landholding Agency: COE
Property Number: 31199830002
Status: Excess
Comment: 0.40 acre encroachment, steep hill

Louisiana

Sulphur Mines Well Site
Highway 90–W
Sulphur Co: Calcasieu Parish LA 70663–
Landholding Agency: GSA
Property Number: 54199930026
Status: Surplus
Comment: 68.02 acres w/4 capped brine injection wells, majority of land densely wooded, located on Gulf Coastal Plain, property was published in error as available on 2/11/00
GSA Number: 7–B–UT–431–M

Michigan

Parcel 3, Parcel B
East Tawas Co: Iosoco MI
Landholding Agency: GSA
Property Number: 54199730013
Status: Excess
Comment: 2.02 acres of land, wooded and primarily wetlands, restricted access
GSA Number: 1–U–MI–500

New York

Galeville Army Training Site
Shwangunk Co: Ulster NY 12589–
Landholding Agency: GSA
Property Number: 21199510128
Status: Excess
Comment: 55 acres of 622 acres are available, improved w/inactive runways, 234 acres is wetlands and habitat for threatened species
GSA Number: 2–D–NY–807

North Carolina

Greenville Relay Station
Site C
Greenville Co: Pitt NC
Landholding Agency: GSA
Property Number: 54199840013
Status: Excess
Comment: 589 acres w/27,830 sq. ft. concrete block bldg., (2 acre chemical waste storage site located on SE portion of property)
GSA Number: 4–GR–NC–0721–B

Pennsylvania

East Branch Clarion River Lake
Wilcox Co: Elk PA
Location: Free camping area on the right bank off entrance roadway.
Landholding Agency: COE
Property Number: 31199011012
Status: Underutilized
Comment: 1 acre; most recent use—free campground

Dashields Locks and Dam
(Glenwillard, PA)
Crescent Twp. Co: Allegheny PA 15046–0475
Landholding Agency: COE
Property Number: 31199210009
Status: Unutilized
Comment: 0.58 acres, most recent use—baseball field

Puerto Rico

La Hueca—Naval Station
Roosevelt Roads
Vieques PR 00765–
Landholding Agency: GSA
Property Number: 54199420006
Status: Excess
Comment: 323 acres, cultural site

Tennessee

1500 acres
Volunteer Army Ammunition Plant
Chattanooga Co: Hamilton TN 37421–
Landholding Agency: GSA
Property Number: 54199930015
Status: Surplus
Comment: scattered throughout facility, most recent use—buffer area, steep topography, potential use restrictions, property was published in error as available on 2/11/00
GSA Number: 4–D–TN–594F

Texas

Parcel #222
Lake Texoma
Co: Grayson TX
Location: C. Meyerheim survey A–829 J. Hamilton survey–529
Landholding Agency: COE
Property Number: 31199010421
Status: Excess
Comment: 52.80 acres; most recent use—recreation

West Virginia

Segment 8
Matewan Redevelopment Site
Matewan Co: Mingo WV
Landholding Agency: GSA
Property Number: 54199910006
Status: Excess
Comment: 3039 acres, subject to convenants/restrictions
GSA Number: 4–D–WV–533

Suitable/To Be Excessed

Land (by State)

Georgia

Lake Sidney Lanier
Co: Forsyth GA 30130–
Location: Located on Two Mile Creek adj. to State Route 369
Landholding Agency: COE
Property Number: 31199440010
Status: Unutilized
Comment: 0.25 acres, endangered plant species

Lake Sidney Lanier-3 parcels
Gainesville Co: Hall GA 30503–
Location: Between Gainesville H.S. and State Route 53 By-Pass
Landholding Agency: COE
Property Number: 31199440011
Status: Unutilized
Comment: 3 parcels totalling 5.17 acres, most recent use—buffer zone, endangered plant species

Indiana

Brookville Lake—Land
Liberty Co: Union IN 47353–
Landholding Agency: COE
Property Number: 31199440009
Status: Unutilized
Comment: 6.91 acres, limited utilities

Kansas

Parcel #1
Fall River Lake
Section 26
Co: Greenwood KS
Landholding Agency: COE
Property Number: 31199010065
Status: Unutilized
Comment: 126.69 acres; most recent use—recreation and leased cottage sites.

Parcel No. 2, El Dorado Lake
Approx. 1 mi east of the town of El Dorado
Co: Butler KS
Landholding Agency: COE
Property Number: 31199210005
Status: Unutilized
Comment: 11 acres, part of a relocated railroad bed, rural area

Massachusetts

Buffumville Dam
Flood Control Project
Gale Road
Carlton Co: Worcester MA 01540–0155
Location: Portion of tracts B–200, B–248, B–251, B–204, B–247, B–200 and B–256
Landholding Agency: COE
Property Number: 31199010016
Status: Excess
Comment: 1.45 acres

Minnesota

Tract #3
Lac Qui Parle Flood Control
Project
County Rd. 13
Watson Co: Lac Qui Parle MN 56295–
Landholding Agency: COE
Property Number: 31199340006
Status: Unutilized
Comment: approximately 2.9 acres, fallow land

Tract #34
Lac Qui Parle Flood Control
Project
Marsh Lake
Watson Co: Lac Qui Parle MN 56295–
Landholding Agency: COE
Property Number: 31199340007
Status: Unutilized
Comment: approx. 8 acres, fallow land

Tennessee

Tract D–456
Cheatham Lock and Dam
Ashland Co: Cheatham TN 37015–
Location: Right downstream bank of Sycamore Creek
Landholding Agency: COE
Property Number: 31199010942
Status: Excess
Comment: 8.93 acres; subject to existing easements

Texas

Corpus Christi Ship Channel
Corpus Christi Co: Neuces TX
Location: East side of Carbon Plant Road, approx. 14 miles NW of downtown Corpus Christi
Landholding Agency: COE
Property Number: 31199240001
Status: Unutilized
Comment: 4.4 acres, most recent use—farm land

Unsuitable Properties

Buildings (by State)

Alabama

Sand Island Light House
Gulf of Mexico
Mobile AL
Landholding Agency: GSA
Property Number: 54199610001
Status: Excess
Reason: Inaccessible
GSA Number: 4–U–AL–763

Mobile Point Light
Gulf Shores Co: Baldwin AL 36542–
Landholding Agency: GSA
Property Number: 54199940011
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 4–U–AL–767

Alaska

0.04 acre/dock
Juneau Dock Natl Guard Site
Juneau Co: AK 99801–
Landholding Agency: GSA
Property Number: 54199910010
Status: Surplus
Reasons: Within 2000 ft. of flammable or explosive material, Extensive deterioration
GSA Number: 9–D–AK–538B

Arkansas

Dwelling
Bull Shoals Lake/Dry Run Road
Oakland Co: Marion AR 72661–
Landholding Agency: COE
Property Number: 31199820001
Status: Unutilized
Reason: Extensive deterioration

California

Soil & Minerals Testing Lab
Sausalito Co: CA 00000–
Landholding Agency: COE
Property Number: 31199920002
Status: Excess
Reason: contamination

Bldg. 913
Sandia National Laboratories
Livermore Co: Alameda CA 94550–
Landholding Agency: Energy
Property Number: 41199830007
Status: Excess
Reason: Secured Area

Old SF Mint
88 5th Street
San Francisco Co: CA 94103–
Landholding Agency: GSA
Property Number: 54199910017
Status: Excess
Reason: Extensive deterioration
GSA Number: 9–G–CA–1531

Castle Area Shops
Sequoia National Park
Three Rivers CA 93271–
Landholding Agency: Interior
Property Number: 61199720004
Status: Unutilized
Reason: Extensive deterioration

Giant Forest Village
Sequoia National Park
Three Rivers CA 93271–
Landholding Agency: Interior
Property Number: 61199720006
Status: Unutilized
Reason: Extensive deterioration

Cabins 90–92, 100V–146
Sequoia National Park
Three Rivers CA 93271–
Landholding Agency: Interior
Property Number: 61199720008
Status: Unutilized
Reason: Extensive deterioration

Lower Kaweah 514–549, 594
Sequoia National Park
Three Rivers CA 93271–
Landholding Agency: Interior
Property Number: 61199720009
Status: Unutilized
Reason: Extensive deterioration

Lower Kaweah Cabins—various
Sequoia National Park
Three Rivers CA 93271–
Landholding Agency: Interior
Property Number: 61199720010
Status: Unutilized
Reason: Extensive deterioration

Bldg. 4190 & Outbuilding
Yosemite National Park
Wawona Co: Madera CA 95389–
Landholding Agency: Interior
Property Number: 61199910002
Status: Unutilized
Reason: Extensive deterioration

Parker Dam Govt Housing Camp
Township 2 North
San Bernardino Co: CA 92401–
Landholding Agency: Interior
Property Number: 61199930001
Status: Excess
Reason: Extensive deterioration

Bldg. 517
NPS Maint Yard
Yosemite Nat Park Co: Mariposa CA 95389–
Landholding Agency: Interior
Property Number: 61199940009
Status: Unutilized
Reason: Extensive deterioration

Colorado

Bldg. 34
Grand Junction Projects Office
Grand Junction Co: Mesa CO 81503–
Landholding Agency: Energy
Property Number: 41199540001
Status: Underutilized
Reasons: Contamination, Secured Area

Bldg. 35
Grand Junction Projects Office
Grand Junction Co: Mesa CO 81503–
Landholding Agency: Energy
Property Number: 41199540002
Status: Underutilized
Reasons: Contamination, Secured Area

Bldg. 36
Grand Junction Projects Office
Grand Junction Co: Mesa CO 81503–
Landholding Agency: Energy
Property Number: 41199540003
Status: Underutilized
Reasons: Contamination, Secured Area

Bldg. 2
Grand Junction Projects Office
Grand Junction Co: Mesa CO 81503–
Landholding Agency: Energy
Property Number: 41199610039
Status: Unutilized
Reasons: Contamination, Secured Area

Bldg. 7
Grand Junction Projects Office
Grand Junction Co: Mesa CO 81503–
Landholding Agency: Energy
Property Number: 41199610040
Status: Unutilized
Reasons: Contamination, Secured Area

Bldg. 35–A
Grand Junction Projects Office
Grand Junction Co: Mesa CO 81503–
Landholding Agency: Energy
Property Number: 41199610041
Status: Unutilized
Reasons: Contamination, Secured Area

Bldg. 33
Grand Junction Projects Office
Grand Junction Co: Mesa CO 81503–
Landholding Agency: Energy
Property Number: 41199610042
Status: Unutilized
Reasons: Contamination, Secured Area

Bldg. 727
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910001
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 729
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910002
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 779
Rocky Flats Environmental Tech site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910003
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. 780
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910004
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. 780A
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910005
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. 780B

Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910006
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. 782
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910007
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. 783
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910008
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. 784(A–D)
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910009
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. 785
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910010
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. 786
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910011
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. 787 (A–D)
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910012
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. 875
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910013
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. 880
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910014
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. 886
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910015
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 308A
Rocky Flats Env. Tech. Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199910016
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 788
Rocky Flats Env. Tech. Site
Golden Co: Jefferson Co 80020–
Landholding Agency: Energy
Property Number: 41199910017
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 888
Rocky Flats Environmental Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930001
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 714 A/B
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930021
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 717
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930022
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

770
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930023
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 771
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930024
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 771B
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930025
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 771C
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930026
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 772–772A
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930027
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 773
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930028
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 774
Rocky Flats Env. Tech Site
Golden Co: Jefferson CO 80020–
Landholding Agency: Energy
Property Number: 41199930029
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Matteson Warehouse
Commerce City Co: Adams CO 80022–
Landholding Agency: GSA
Property Number: 54199940007
Status: Surplus
Reason: landlocked
GSA Number: 7–Z–CO–642

Connecticut

Hezekiah S. Ramsdell Farm
West Thompson Lake
North Grosvenordale Co: Windham CT 06255–9801
Landholding Agency: COE
Property Number: 31199740001
Status: Unutilized
Reasons: Floodway, Extensive deterioration

Bldgs. 25 and 26
Prospect Hill Road
Windsor Co: Hartford CT 06095–
Landholding Agency: Energy
Property Number: 41199440003
Status: Excess
Reason: Secured Area

9 Bldgs.
Knolls Atomic Power Lab, Windsor Site
Windsor Co: Hartford CT 06095–
Landholding Agency: Energy
Property Number: 41199540004
Status: Excess
Reason: Secured Area

Bldg. 8, Windsor Site
Knolls Atomic Power Lab
Windsor Co: Hartford CT 06095–
Landholding Agency: Energy
Property Number: 41199830006
Status: Unutilized
Reason: Extensive deterioration

Delaware

Mispillion River Light
Milford Co: Sussex DE 19963–
Landholding Agency: GSA
Property Number: 54199740001
Status: Excess
Reason: Extensive deterioration
GSA Number: 4–U–DE–461

Florida

Cape St. George Lighthouse
St. George Island Co: Franklin FL 32328–
Landholding Agency: GSA
Property Number: 54199940012
Status: Excess
Reasons: Floodway, Extensive deterioration
GSA Number: 4–U–FL–1167

Boca Grande Range
Rear Light
Gasparilla Island Co: Lee FL 33921–
Landholding Agency: GSA
Property Number: 54199940013
Status: Excess
Reason: Floodway
GSA Number: 4–U–FL–1169

Sanibel Island Light
Sanibel Co: Lee FL 33957–
Landholding Agency: GSA
Property Number: 54199940014
Status: Excess
Reason: Floodway
GSA Number: 4–U–FL–1162

Amelia Island Light
Fernandina Beach Co: Nassau FL 32034–
Landholding Agency: GSA
Property Number: 54199940016
Status: Excess
Reason: Secured Area
GSA Number: 4–U–FL–1171

Hawaii

Portion, Bellows AFS
DE #1, Parcel 5A
Waimanalo Co: Oahu HI 96795–
Landholding Agency: GSA
Property Number: 54199930025
Status: Surplus
Reason: Floodway
GSA Number: 9–D–HI–574

Idaho

Bldg. AFD0070
Albeni Falls Dam
Oldtown Co: Bonner ID 83822–
Landholding Agency: COE
Property Number: 31199910001
Status: Unutilized
Reason: Extensive deterioration

Bldg. PBF–621
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610001
Status: Unutilized
Reason: Secured Area

Bldg. CPP–1609
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610002
Status: Unutilized
Reason: Secured Area

Bldg. CPP–691
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610003
Status: Unutilized
Reason: Secured Area

Bldg. CPP–625
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610004
Status: Unutilized
Reason: Secured Area

Bldg. CPP–650
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610005
Status: Unutilized
Reason: Secured Area

Bldg. CPP–608
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610006
Status: Unutilized
Reason: Secured Area

Bldg. TAN–660
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610007
Status: Unutilized
Reason: Secured Area

Bldg. TAN–636
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610008
Status: Unutilized
Reason: Secured Area

Bldg. TAN–609
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610009
Status: Unutilized
Reason: Secured Area

Bldg. TAN–670
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610010
Status: Unutilized
Reason: Secured Area

Bldg. TAN–661
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610011
Status: Unutilized
Reason: Secured Area

Bldg. TAN–657
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610012
Status: Unutilized
Reason: Secured Area

Bldg. TRA–669
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610013
Status: Unutilized
Reason: Secured Area

Bldg. TAN–637
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610014
Status: Unutilized
Reason: Secured Area

Bldg. TAN–635
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610015
Status: Unutilized
Reason: Secured Area

Bldg. TAN–638
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610016
Status: Unutilized
Reason: Secured Area

Bldg. TAN–651
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610017
Status: Unutilized
Reason: Secured Area

Bldg. TRA–673
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610018
Status: Unutilized
Reason: Secured Area

Bldg. PBF–620
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610019
Status: Unutilized
Reason: Secured Area

Bldg. PBF–616
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610020
Status: Unutilized
Reason: Secured Area

Bldg. PBF–617
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610021
Status: Unutilized
Reason: Secured Area

Bldg. PBF–619
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610022
Status: Unutilized
Reason: Secured Area

Bldg. PBF–624
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610023
Status: Unutilized
Reason: Secured Area

Bldg. PBF–625
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610024
Status: Unutilized
Reason: Secured Area

Bldg. PBF–629
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610025
Status: Unutilized

Reason: Secured Area

Bldg. PBF–604
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610026
Status: Unutilized
Reason: Secured Area

Bldg. TRA–641
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610034
Status: Unutilized
Reason: Secured Area

Bldg. CF–606
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199610037
Status: Unutilized
Reason: Secured Area

CF657/CF716
Idaho National Engineering Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199710005
Status: Excess
Reason: Secured Area

TAN620/TAN656
Idaho National Engineering Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199710009
Status: Excess
Reasons: Secured Area, Extensive deterioration

TAN 602, 631, 663, 702, 724
Idaho Natl Engineering & Environmental Lab
Test Area North
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41199830002
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

8 Bldgs.
Idaho Natl Engineering & Environmental Lab
Test Reactor North
Scoville Co: Butte ID 83415–
Location: TRA 643, 644, 655, 660, 704–706, 755
Landholding Agency: Energy
Property Number: 41199830003
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

B16–703, B16–704
Idaho Natl Eng & Env Lab
Scoville Co: Butte ID 83415–
Landholding Agency: Energy
Property Number: 41200010021
Status: Excess
Reason: Extensive deterioration

Bldg. Minidoka Project
Rupert Co: ID 83350–
Landholding Agency: Interior
Property Number: 61199910001
Unutilized
Reason: Extensive deterioration

Illinois

Navy Family Housing
18-units
Hanna City Co: Peoria IL 61536–
Landholding Agency: GSA
Property Number: 54199940018
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 1–N–IL–723

Indiana

Brookville Lake—Bldg.
Brownsville Rd. in Union
Liberty Co: Union IN 47353–
Landholding Agency: COE
Property Number: 31199440004
Status: Excess
Reason: Extensive deterioration

Bldg.
Patoka Lake Project
4512 N. Cuzco Road S
DuBois Co: IN 47527–9661
Landholding Agency: COE
Property Number: 31200010001
Status: Unutilized
Reason: Extensive deterioration

Iowa

House, Tract 100
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 31199530002
Status: Excess
Reason: Extensive deterioration

Play House, Tract 100
Camp Dodge
Johnston Co: Polk IA 50131–
Lanholding Agency: COE
Property Number: 31199530003
Status: Excess
Reason: Extensive deterioration

House, Tract 122
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 31199530004
Status: Excess
Reason: Extensive deterioration

Shed, Tract 122
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 31199530005
Status: Excess
Reason: Extensive deterioration

Garage, Tract 122
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 31199530006
Status: Excess
Reason: Extensive deterioration

Machine Shed, Tract 122
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 31199530007
Status: Excess
Reason: Extensive deterioration

Barn, Tract 122
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 31199530008
Status: Excess
Reason: Extensive deterioration

2-Car Garage, Tract 122
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 31199530009
Status: Excess
Reason: Extensive deterioration

Barn, Tract 128
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 31199530010
Status: Excess
Reason: Extensive deterioration

Shed, Tract 128
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 31199530011
Status: Excess
Reason: Extensive deterioration

House, Tract 129
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 31199530012
Status: Excess
Reason: Extensive deterioration

Play House, Tract 129
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 31199530013
Status: Excess
Reason: Extensive deterioration

Kennel, Tract 129
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 31199530014
Status: Excess
Reason: Extensive deterioration

Corn Crib, Tract 129
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 31199530015
Status: Excess
Reason: Extensive deterioration

Barn W, Tract 129
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 31199530016
Status: Excess
Reason: Extensive deterioration

Barn E, Tract 129
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 31199530017
Status: Excess
Reason: Extensive deterioration

Shed, Tract 129
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 31199530018
Status: Excess
Reason: Extensive deterioration

House, Tract 130
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE

Property Number: 31199530019
Status: Excess
Reason: Extensive deterioration

Out House, Tract 130
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 31199530020
Status: Excess
Reason: Extensive deterioration

Chicken House, Tract 130
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 31199530021
Status: Excess
Reason: Extensive deterioration

Shed, Tract 130
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 31199530022
Status: Excess
Reason: Extensive deterioration

Barn, Tract 135
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 31199530023
Status: Excess
Reason: Extensive deterioration

Smokehouse, Tract 135
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 31199530024
Status: Excess
Reason: Extensive deterioration

Shed, Tract 137
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 31199530025
Status: Excess
Reason: Extensive deterioration

Shed—White, Tract 137
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 31199530026
Status: Excess
Reason: Extensive deterioration

Leanto, Tract 137
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 31199530027
Status: Excess
Reason: Extensive deterioration

Tract 116, Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 31199630006
Status: Unutilized
Reason: Extensive deterioration

Kansas

Sunflower AAP
DeSoto Co: Johnson KS 66018–
Landholding Agency: GSA
Property Number: 54199830010
Status: Excess
Reason: Extensive deterioration
GSA Number: 7–D–KS–0581

Kentucky

Spring House
Kentucky River Lock and Dam No. 1
Highway 320
Carrollton Co: Carroll KY 41008–
Landholding Agency: COE
Property Number: 21199040416
Status: Unutilized
Reason: Spring House

Building
Kentucky River Lock and Dam No. 4
1021 Kentucky Avenue
Frankfort Co: Franklin KY 40601–9999
Landholding Agency: COE
Property Number: 21199040417
Status: Unutilized
Reason: Coal Storage

Building
Kentucky River Lock and Dam No. 4
1021 Kentucky Avenue
Frankfort Co: Franklin KY 40601–9999
Landholding Agency: COE
Property Number: 21199040418
Status: Unutilized
Reason: Coal Storage

Building
Kentucky River Lock and Dam No. 4
1021 Kentucky Avenue
Frankfort Co: Franklin KY 40601–9999
Landholding Agency: COE
Property Number: 21199040418
Status: Unutilized
Reason: Coal Storage

Barn
Kentucky River Lock and Dam No. 3
Highway 561
Pleasureville Co: Henry KY 40057–
Landholding Agency: COE
Property Number: 21199040419
Status: Underutilized
Reason: Extensive deteriation

Latrine
Kentucky River Lock and Dam Number 3
Highway 561
Pleasureville Co: Henry KY 40057–
Landholding Agency: COE
Property Number: 31199040009
Status: Unutilized
Reason: Detached Latrine

6-Room Dwelling
Green River Lock and Dam No. 3
Rochester Co: Butler KY 42273–
Location: Off State Hwy 369, which runs off of Western Ky. Parkway
Landholding Agency: COE
Property Number: 31199120010
Status: Unutilized
Reason: Floodway

2-Car Garage
Green River Lock and Dam No. 3
Rochester Co: Butler KY 42273–
Location: Off State Hwy 369, which runs off of Western Ky. Parkway
Landholding Agency: COE
Property Number: 31199120011
Status: Unutilized
Reason: Floodway

Office and Warehouse
Green River Lock and Dam No. 3
Rochester Co: Butler KY 42273–
Location: Off State Hwy 369, which runs off of Western Ky. Parkway
Landholding Agency: COE
Property Number: 31199120012
Status: Unutilized
Reason: Floodway

2 Pit Toilets
Green River Lock and Dam No. 3
Rochester Co: Butler KY 42273–
Landholding Agency: COE
Property Number: 31199120013
Status: Unutilized
Reason: Floodway

Ranger Station
Big South Fork Natl River & Rec Area
Stearnes Co: McCreary KY 42647–
Landholding Agency: Interior
Property Number: 61199910008
Status: Excess
Reason: Extensive deterioration

Qtrs. 36
Mammoth Cave National Park
Mammoth Cave Co: Barren KY 42259–
Landholding Agency: Interior
Property Number: 61199920001
Status: Unutilized
Reason: Extensive deterioration

9 Bldgs.
Wondering Woods
Mammoth Cave National Park
Mammoth Cave Co: Barren KY 42259–
Landholding Agency: Interior
Property Number: 61199920002
Status: Excess
Reason: Extensive deterioration

Louisiana

Weeks Island Facility
New Iberia Co: Iberia Parish LA 70560–
Landholding Agency: Energy
Property Number: 41199610038
Status: Underutilized
Reason: Secured Area

Massachusetts

Frederick Murphy Federal Ctr
424 Trapelo Road
Waltham Co: MA 00000–
Landholding Agency: GSA
Property Number: 54199920005
Status: Surplus
Reason: Extensive deterioration
GSA Number: 1–G–MA–0848

Michigan

15 Offshore Lighthouses
Great Lakes MI
Landholding Agency: GSA
Property Number: 54199630014
Status: Excess
Reason: Extensive deterioration

Parcel 14, Boat House
East Tawas Co: Iosco MI
Landholding Agency: GSA
Property Number: 54199730014
Status: Excess
Reason: Extensive deterioration
GSA Number: 1–U–MI–500

Round Island Passage Light
Lake Huron
Lake Huron Co: Mackinac MI
Landholding Agency: GSA
Property Number: 54199730019
Status: Excess
Reason: Inaccessible
GSA Number: 1–U–MI–444B

Tract 100–1
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: GSA

Property Number: 54199840003
Status: Excess
Reason: No legal access
GSA Number: 1–D–MI–659A

Tracts 100–2, 100–3
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: GSA
Property Number: 54199840004
Status: Excess
Reason: No legal access
GSA Number: 1–D–MI–659A

Minnesota

Bldg.
Upper St. Anthony Falls
Minneapolis Co: Hennepin MN 55440–
Landholding Agency: COE
Property Number: 31199930001
Status: Unutilized
Reason: Extensive deterioration

Matthew Marvin USARC
Winona Co: MN 55987–
Landholding Agency: GSA
Property Number: 54199930002
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 1–D–MN–576

Naval Ind. Rsv Ordnance Plant
Minneapolis Co: MN 55421–1498
Landholding Agency: GSA
Property Number: 54199930004
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 1–N–MN–570

Missouri

Tract 2222
Stockton Project
Aldrich Co: Polk MO 65601–
Landholding Agency: COE
Property Number: 31199510001
Status: Excess
Reason: Extensive deterioration

Barn, Longview Lake
Kansas City Co: Jackson MO 64134–
Landholding Agency: COE
Property Number: 31199620001
Status: Excess
Reason: Extensive deterioration

Bldg. 81
Kansas City Plant
Bannister Road
Kansas City Co: MO 00000–
Landholding Agency: Energy
Property Number: 41199930030
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material

South Coast Guard Base
Iron Street
St. Louis MO 63111–2536
Landholding Agency: GSA
Property Number: 54199740010
Status: Surplus
Reason: Within 2000 ft. of flammable or explosive material, Floodway, Extensive deterioration
GSA Number: 7–U–MO–0576–B

Montana

Barn/Garage
316 N. 26th Street
Billings Co: Yellowstone MT
Landholding Agency: Interior
Property Number: 61199520022
Status: Excess
Reason: Extensive deterioration

Nevada

Former Weather Service Office
Winnemucca Airport
Winnemucca Co: Humbolt NV 89445–
Landholding Agency: GSA
Property Number: 54199810001
Status: Excess
Reason: Within airport runway clear zone
GSA Number: 9–C–NV–509

New Jersey

Units C33 and C34
Princeton Plasma Physics Lab
Princeton Co: Mercer NJ 08540–
Landholding Agency: Energy
Property Number: 41199930020
Status: Excess
Reason: Extensive deterioration

Telephone Repeater Site
U.S. Coast Guard
Monmouth Beach Co: Monmouth Beach NJ 07750–
Landholding Agency: GSA
Property Number: 54199910001
Status: Excess
Reason: Extensive deterioraton
GSA Number: 1–U–NJ–628

New Jersey

Old Bridge Housing
Route 9
Old Bridge Co: NJ 08857–
Landholding Agency: GSA
Property Number: 54199940010
Status: Excess
Reason: Extensive deterioration
GSA Number: 0–0–NJ–000

New Mexico

Bldgs. 9252, 9268
Kirtland Air Force Base
Albuquerque Co: Bernalillo NM 87185–
Landholding Agency: Energy
Property Number: 41199430002
Status: Unutilized
Reason: Extensive deterioration

Tech Area II
Kirtland Air Force Base
Albuquerque Co: Bernalillo NM 87105–
Landholding Agency: Energy
Property Number: 41199630004
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 1, TA–33
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810001
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 2, TA–33
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810002
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 24, TA–33
Los Alamos National Laboratory
Los Alamos, NM 87545–
Landholding Agency: Energy
Property Number: 41199810003
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 26, TA–33
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810004
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 86, TA–33
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810005
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 88, TA–33
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810006
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 89, TA–33
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810007
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 2, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810008
Status: Underutilized
Reason: Secured Area

Bldg. 5, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810011
Status: Unutilized
Reason: Secured Area

Bldg. 21, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810012
Status: Unutilized
Reason: Secured Area

Bldg. 116, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810013
Status: Unutilized
Reason: Secured Area

Bldg. 212, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810014
Status: Unutilized
Reason: Secured Area

Bldg. 228, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810015
Status: Unutilized
Reason: Secured Area

Bldg. 286, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810016
Status: Unutilized
Reason: Secured Area

Bldg. 63, TA–16
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810019
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Extensive deterioration

Bldg. 515 TA–16
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810020
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 516, TA–16
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810021
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 517, TA–16
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810022
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 518, TA–16
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810023
Status: Unutilized
Reasons: Within 2000 ft. of flammble or explosive material, Secured Area, Extensive deterioration

Bldg. 519, TA–16
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810024
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 520, TA–16
Los Alamos National Laboratory
Los Alamos NM 87545–
Landholding Agency: Energy
Property Number: 41199810025
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 18, TA–16
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199840001
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 31
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199930003
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 4, TA–2
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199930004
Status: Unutilized
Reason: Secured Area

Bldg. 50, TA–2
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199930005
Status: Unutilized
Reason: Secured Area

Bldg. 88, TA–2
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199930006
Status: Unutilized
Reason: Secured Area

Bldg. 89, TA–2
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199930007
Status: Unutilized
Reason: Secured Area

Bldg. 21, TA–2
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940001
Status: Unutilized
Reason: Secured Area

Bldg. 57, TA–2
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940002
Status: Unutilized
Reason: Secured Area

Bldg. 28, TA–8
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940003
Status: Unutilized
Reason: Secured Area

Bldg. 38, TA–14
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940004
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 8, TA–15
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940005
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 9, TA–15
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940006
Status: Unutilized
Reason: Secured Area

Bldg. 22, TA–15
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940007
Status: Unutilized
Reason: Secured Area

Bldg. 141, TA–15
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940008
Status: Unutilized
Reason: Secured Area

Bldg. 44, TA–15
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940009
Status: Unutilized
Reason: Secured Area

Bldg. 2, TA–18
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940010
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 5, TA–18
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940011
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 186, TA–18
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940012
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 188, TA–18
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940013
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 254, TA–21
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy

Property Number: 41199940014
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 44, TA–36
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940015
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 45, TA–36
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940016
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 19, TA–40
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940017
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 43, TA–40
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940018
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 258, TA–46
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41199940019
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 897X
Tech Area I, Kirtland AFB
Albuquerque Co: Bernalillo NM 87185–
Landholding Agency: Energy
Property Number: 41199940021
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

TA–2, Bldg. 1
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010008
Status: Unutilized
Reasons: Secured Area

TA–2, Bldg. 44
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010009
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

TA–3, Bldg. 208
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010010
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

TA–6, Bldg. 1
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010011
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

TA–6, Bldg. 2
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010012
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

TA–6, Bldg. 3
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010013
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

TA–6, Bldg. 5
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010014
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

TA–6, Bldg. 6
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010015
Status: Unutilized
Reasons: Secured Area

TA–6, Bldg. 7
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010016
Status: Unutilized
Reasons: Secured Area

TA–6, Bldg. 8
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010017
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

TA–6, Bldg. 9
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010018
Status: Unutilized
Reason: Secured Area

TA–14, Bldg. 5
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010019
Status: Unutilized
Reason: Secured Area

TA–21 Bldg. 150
Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200010020
Status: Unutilized
Reason: Secured Area

New York

Bldg. P–1
Glen Falls Reserve Center
Glen Falls Co: Warren NY 12801–
Location: 67–73 Warren Street
Landholding Agency: GSA
Property Number: 21199540015
Status: Excess
Reason: Extensive deterioration
GSA Number: 1–D–NY–865

Warehouse
Whitney Lake Project
Whitney Point Co: Broome NY 13862–0706
Landholding Agency: COE
Property Number: 31199630007
Status: Unutilized
Reason: Extensive deterioration

Bldg. 577
Brookhaven National Lab
Upton Co: Suffolk NY 11973–
Landholding Agency: Energy
Property Number: 41199940022
Status: Excess
Reason: Extensive deterioration

Bldg. AT–1
Knolls Atomic Power Lab
Niskayuna Co: Schenectady NY 12301–
Landholding Agency: Energy
Property Number: 41200010022
Status: Excess
Reason: Secured Area

2 Offshore Lighthouses
Great Lakes NY
Landholding Agency: GSA
Property Number: 54199630015
Status: Excess
Reason: Extensive deterioration

Galloo Island Light
Lake Ontario
Hounsfield Co: Jefferson NY
Landholding Agency: GSA
Property Number: 54199740016
Status: Excess
Reason: inaccessible
GSA Number: 1–U–NY–735C

Peconic ''H'' Facility
Brookhaven Co: Suffolk NY 00000–
Landholding Agency: GSA
Property Number: 54199920002
Status: Excess
Reason: no public access
GSA Number: 1–U–NY–641B

Point AuRoche Light
Beekmantown Co: Clinton NY 12901–
Landholding Agency: GSA
Property Number: 87199420002
Status: Excess
Reason: Floodway, Extensive deterioration
GSA Number: 2–4–NY–817

Ohio

Lab
Ohio River Division
Laboratories
Mariemont Co: Hamilton OH 15227–4217
Landholding Agency: COE
Property Number: 31199510002
Status: Unutilized
Reason: Secured Area

Storage Facility
Ohio River Division Laboratories
Mariemont Co: Hamilton HO 15227–4217
Landholding Agency: COE

Property Number: 31199510003
Status: Unutilized
Reason: Secured Area

Office Building
Ohio River Division Laboratories
Mariemont Co: Hamilton OH 15227–4217
Landholding Agency: COE
Property Number: 31199510004
Status: Unutilized
Reason: Secured Areas

Bldg. 77
Fernald Environmental Management Project
Fernald Co: Hamilton HO 45013–
Landholding Agency: Energy
Property Number: 41199840003
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 82A
Fernald Environmental Mgmt Project
Fernald Co: Hamilton OH 45013–
Landholding Agency: Energy
Property Number: 41199910018
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 02
RMI Environmental Services
Ashtabula Co: OH 44004–
Landholding Agency: Energy
Property Number: 41199930008
Status: Unutilized
Reason: Secured Area

Bldg. 06
RMI Environmental Services
Ashtabula Co: OH 44004–
Landholding Agency: Energy
Property Number: 41199930009
Status: Unutilized
Reason: Secured Area

Bldg. 09
RMI Environmental Services
Ashtabula Co: OH 44004–
Landholding Agency: Energy
Property Number: 41199930011
Status: Unutilized
Reason: Secured Area

Bldg. 11
RMI Environmental Services
Ashtabula Co: OH 44004–
Landholding Agency: Energy
Property Number: 41199930012
Status: Unutilized
Reason: Secured Area

Bldg. 12
RMI Environmental Services
Ashtabula Co: OH 44004–
Landholding Agency: Energy
Property Number: 41199930013
Status: Unutilized
Reason: Secured Area

Bldg. 13
RMI Environmental Services
Ashtabula Co: OH 44004–
Landholding Agency: Energy
Property Number: 41199930014
Status: Unutilized
Reason: Secured Area

Bldgs. 14 & 15
RMI Environmental Services
Ashtabula Co: OH 44004–
Landholding Agency: Energy
Property Number: 41199930015
Status: Unutilized
Reason: Secured Area

Bldg. 16
RMI Environmental Services
Ashtabula Co: OH 44004–
Landholding Agency: Energy
Property Number: 41199930016
Status: Unutilized
Reason: Secured Area

Bldg. 22
RMI Environmental Services
Ashtabula Co: OH 44004–
Landholding Agency: Energy
Property Number: 41199930018
Status: Unutilized
Reason: Secured Area

Bldg. 24
RMI Environmental Services
Ashtabula Co: OH 44004–
Landholding Agency: Energy
Property Number: 41199930019
Status: Unutilized
Reason: Secured Area

Toledo Harbor Lighthouse
Lake Erie
Toledo Co: Lucas OH 43611–
Landholding Agency: GSA
Property Number: 54199710014
Status: Excess
Reason: Inaccessible
GSA Number: 1–U–OH–801

Toledo Federal Building
234 Summit Avenue
Toledo Co: Lucas OH 43604–
Landholding Agency: GSA
Property Number: 54199810014
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 1–G–H–804

Oklahoma

Bldgs. 4a, 4b, 6, 8, 9, 11, 12
NIPER
Bartlesville Co: Washington OK 74003–
Landholding Agency: Energy
Property Number: 41199720003
Status: Unutilized
Reason: Extensive deterioration

Oregon

Portion, Former Kingley Field Air Force Base
Arnold Ave. & Joe Wright Rd.
Klamath Falls Co: Klamath OR 97603–
Landholding Agency: GSA
Property Number: 54199810003
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 10–D–OR–434–J

Troutdale Materials Lab
Troutdale Co: Multnomah OR 97060–9501
Landholding Agency: GSA
Property Number: 54199830009
Status: Surplus
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 9–D–OR–729

Pennsylvania

Z-Bldg.
Bettis Atomic Power Lab
West Mifflin Co: Alleghey PA 15122–0109
Landholding Agency: Energy
Property Number: 41199720002
Status: Excess
Reason: Extension deterioration

Weiland Prop. —Sound Studio
Gettysburg Co: Adams PA 17325–
Landholding Agency: Interior
Property Number: 61199810013
Status: Excess
Reason: Extensive deterioration

YCC1 Garage
Briscoe Mtn. Road
Dingman's Ferry Co: Monroe PA 18324–
Landholding Agency: Interior
Property Number: 61200010011
Status: Unutilized
Reason: Extensive deterioration

Biology Field Station
Brisco Mtn. Road
Dingman's Ferry Co: Monroe PA 18328–
Landholding Agency: Interior
Property Number: 61200010012
Status: Unutilized
Reason: Extensive deterioration

Puerto Rico

Dry Dock & Ship Repair Fac.
U.S. Navy
San Juan PR
Landholding Agency: GSA
Property Number: 54199710012
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Floodway
GSA Number: 1–N–PR–491

Puerto Rico

NIH Primate Research Facility
Sabena Seca PR
Landholding Agency: GSA
Property Number: 54199720021
Status: Excess
Reason: landlocked
GSA Number: 1–H–PR–503

Tennessee

Bldg. 204
Cordell Hull Lake and Dam Project
Defeated Creek Recreation Area
Carthage Co: Smith TN 37030–
Location: US Highway 85
Landholding Agency: COE
Property Number: 31199011499
Status: Unutilized
Reason: Floodway

Tract 2618 (Portion)
Cordell Hull Lake and Dam Project
Roaring River Recreation Area
Gainesboro Co: Jackson TN 38562–
Location: TN Highway 135
Landholding Agency: COE
Property Number: 31199011503
Status: Underutilized
Reason: Floodway

Water Treatment Plant
Dale Hollow Lake & Dam Project
Obey River Park, State Hwy 42
Livingston Co: Clay TN 38351–
Landholding Agency: COE
Property Number: 31199140011
Status: Excess
Reason: water treatment plant

Water Treatment Plant
Dale Hollow Lake & Dam Project
Lillydale Recreation Area, State Hwy 53
Livingston Co: Clay TN 38351–
Landholding Agency: COE
Property Number: 31199140012
Status: Excess
Reason: water treatment plant

Water Treatment Plant
Dale Hollow Lake & Dam Project
Willow Grove Recreational Area, Hwy No. 53
Livingston Co: Clay TN 38351–
Landholding Agency: COE
Property Number: 31199140013
Status: Excess
Reason: water treatment plant

Caretakers Facilities
Lock 7
Old Hickory Lock & Dam
Carthage Co: Smith TN 37030–
Landholding Agency: COE
Property Number: 31200010002
Status: Unutilized
Reason: Extensive deterioration

Bldg. 3004
Oak Ridge National Lab
Oak Ridge Co: Roane TN 37831–
Landholding Agency: Energy
Property Number: 41199710002
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 3004
Oak Ridge National Lab
Oak Ridge Co: Roane TN 37831–
Landholding Agency: Energy
Property Number: 41199720001
Status: Excess
Reason: Extensive deterioration

Bldgs. 9714–3, 9714–4, 9983–AY Y–12 Pistol Range
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41199720004
Status: Unutilized
Reason: Secured Area

5 Bldgs.
K–724, K–725, K–1031, K–1131, K1410
East Tennessee Technology Park
Oak Ridge Co: Roane TN 37831–
Landholding Agency: Energy
Property Number: 41199730001
Status: Unutilized
Reason: Extensive deterioration

Bldg. 9418–1
Y–12 Plant
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41199810026
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 9825
Y–12 Plant
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 41199810027
Status: Unutilized
Reason: Secured Area

Bldg. 3026
Oak Ridge Natl Lab
Oak Ridge Co: Roane TN 37831–
Landholding Agency: Energy
Property Number: 41199830001
Status: Excess
Reasons: Secured Area; Extensive deterioration

Bldg. 3505
Oak Ridge National Lab
Oak Ridge Co: Roane TN 37831–
Landholding Agency: Energy
Property Number: 41199940020
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

9 Bldgs.
E. Tennessee Tech Park
Oak Ridge Co: Roane TN 37831–
Location: K–1001, K–1301, K–1302, K–1303, K–1404, K–1405–6, K–1407, K–1408A, K–1413
Landholding Agency: Energy
Property Number: 41200010023
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

22 Bldgs.
Volunteer Army Ammunition Plant
Warehouses (Southern Portion)
Chattanooga Co: Hamilton TN 37421–
Landholding Agency: GSA
Property Number: 54199930016
Status: Surplus
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 4–D–TN–594F

17 Bldgs.
Volunteer Army Ammunition Plant
Acid Production
Chattanooga Co: Hamilton TN 37421–
Landholding Agency: GSA
Property Number: 54199930017
Status: Surplus
Reasons: Within 2000 ft. of flammable or explosive material contamination
GSA Number: 4–D–TN–594F

41 Facilities
Volunteer Army Ammunition Plant
TNT Production
Chattanooga Co: Hamilton TN 37421–
Landholding Agency: GSA
Property Number: 54199930018
Status: Surplus
Reason: Contamination
GSA Number: 4–D–TN–594F

5 Facilities
Volunteer Army Ammunition Plant
Waste Water Treatment
Chattanooga Co: Hamilton TN 37421–
Landholding Agency: GSA
Property Number: 54199930019
Status: Surplus
Reason: Extensive deterioration
GSA Number: 4–D–TN–594F

6 Bldgs.
Volunteer Army Ammunition Plant
Offices (Southern Portion)
Chattanooga Co: Hamilton TN 37421–
Landholding Agency: GSA
Property Number: 54199930023
Status: Surplus
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 4–D–TN–594F

Tract 01–205
Stones River Natl Battlefield
Murfreesboro Co: Rutherford TN 37129–
Landholding Agency: Interior
Property Number: 61199940010
Status: Unutilized
Reason: Extensive deterioration

Elkmont Maint/Ofc Bldg
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940011
Status: Unutilized
Reason: Extensive deterioration

Guest House 9A
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940012
Status: Unutilized
Reason: Extensive deterioration

Cabin 9B
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940013
Status: Unutilized
Reason: Extensive deterioration

Cabin 12, Sneed's
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940014
Status: Unutilized
Reason: Extensive deterioration

Cabin 14
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940015
Status: Unutilized
Reason: Extensive deterioration

Cabin 16, Burdette's
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940016
Status: Unutilized
Reason: Extensive deterioration

Cabin 17, Bagley's
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940017
Status: Unutilized
Reason: Extensive deterioration

Cabin 20, Andrews
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940018
Status: Unutilized
Reason: Extensive deterioration

Cabin 25, Franklins
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940019
Status: Unutilized
Reason: Extensive deterioration

Cabin 26, Hutchins
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940020
Status: Unutilized

Reason: Extensive deterioration

Cabin 43, Brandau's
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940021
Status: Unutilized
Reason: Extensive deterioration

Cabin 44, Parrott's
Great Smoky Mtns Natl Park
N. District
Gatlinburg Co: Sevier TN 37738–
Landholding Agency: Interior
Property Number: 61199940022
Status: Unutilized
Reason: Extensive deterioration

Texas

Station Port Mansfield
Port Mansfield Co: Willary TX 78598–
Landholding Agency: GSA
Property Number: 54199930008
Status: Surplus
Reason: Floodway
GSA Number: 7–U–TX–1057

Portion-Port O'Connor Housing
1125 Brook Hollow Drive
Port Lavaca Co: Calhoun TX 77979–
Landholding Agency: GSA
Property Number: 54199940006
Status: Excess
Reason: Extensive deterioration
GSA Number: 7–U–TX–1056

Log Cabin
Saratoga Unit
Hwy 770
Saratoga Co: Hardin TX 77585–
Landholding Agency: Interior
Property Number: 61199940023
Status: Unutilized
Reason: Extensive deterioration

Smith Property
Tract No. 01–123
Johnson City Co: Blance TX 00000–
Landholding Agency: Interior
Property Number: 61200010010
Status: Unutilized
Reason: Extensive deterioration

Washington

Bldg. 844
Former Park Place Enlisted Club
808 Burwell St.
Bremerton Co: Kitsap WA 98314–
Landholding Agency: GSA
Property Number: 54199840002
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 9–D–WA–1164

Bldgs. 1158, 1159
Ross Lake Natl Recreation Area
Co: Whatcom WA
Landholding Agency: Interior
Property Number: 61199820001
Status: Unutilized
Reason: Extensive deterioration

N3202, Residence
Pasco Co: Franklin WA 99301–
Landholding Agency: Interior
Property Number: 61199910014
Status: Excess
Reason: Extensive deterioration

N3204, Residence
Pasco Co: Franklin WA 99301–
Landholding Agency: Interior
Property Number: 61199910015
Status: Excess
Reason: Extensive deterioration

N3206, Residence
Pasco Co: Franklin WA 99301–
Landholding Agency: Interior
Property Number: 61199910016
Status: Excess
Reason: Extensive deterioration

West Virginia

Thomas House, Tract 173–20
New River Gorge National River
Glen Jean Co: Fayette WV 25846–
Landholding Agency: Interior
Property Number: 61199910009
Status: Excess
Reason: Extensive deterioration

Cole House, Tract 153–07
New River Gorge National River
Fayetteville Co: Fayette WV 25840–
Landholding Agency: Interior
Property Number: 61199910010
Status: Excess
Reason: Extensive deterioration

Vento House, Tract 173–17
New River Gorge National River
Glen Jean Co: Fayette WV 25846–
Landholding Agency: Interior
Property Number: 61199910011
Status: Excess
Reason: Extensive deterioration

Wisconsin

2 Offshore Lighthouses
Great Lakes WI
Landholding Agency: GSA
Property Number: 54199630016
Status: Excess
Reason: Extensive deterioration

Land (by State)

Arizona

Lamoreaux Property
Case # 99–030
Gilbert Co: Maricopa AZ 85296–
Landholding Agency: Interior
Property Number: 61200010013
Status: Unutilized
Reason: no public access

Parcel SG–1–96, SG–1–138
T1N, R7E, Secs 22&23
Mesa Co: Maricopa AZ 85027
Landholding Agency: Interior
Property Number: 61200010014
Status: Unutilized
Reason: no public access

Arkansas

0.426 acres
Former Lower Level Windshear
Alert Sys #4
Litter Rock Co: Pulaski AR 57501–
Landholding Agency: GSA
Property Number: 54199910016
Status: Surplus
Reasons: Within airport runway clear zone, floodway
GSA Number: 7–U–AR–555

California

Excess Land at Eureka Housing
Eureka Co: Humboldt CA 95501–
Landholding Agency: GSA
Property Number: 87199540001
Status: Excess
Reason: inaccessible
GSA Number: 9UCA1527

Florida

(P) Ponce de Leon Inlet
2999 N. Peninsula Ave.
New Smyrna Beach Co: Volusia FL 32169–
Landholding Agency: GSA
Property Number: 54199940015
Status: Excess
Reason: Floodway
GSA Number: 4–U–FL–1170

Guam

Submerged Lands
Ritidian Point GU
Landholding Agency: GSA
Property Number 54199640003
Status: Excess
Reason: Inaccessible
GSA Number: 9–N–GU–437

Idaho

7.9 acre parcel
Portions of Sec. 15
American Falls Co: Power ID 83211–
Landholding Agency: Interior
Property Number 61200010015
Status: Excess
Reason: no public access

Kentucky

Tract 4626
Barkley, Lake, Kentucky and Tennessee
Donaldson Creek Launching Area
Cadiz Co: Trigg KY 42211–
Location: 14 miles from US Highway 68.
Landholding Agency: COE
Property Number: 31199010030
Status: Underutilized
Reason: Floodway

Tract AA–2747
Wolf Creek Dam and Lake
Cumberland
US HWY. 27 to Blue John Road
Burnside Co: Pulaski KY 42519–
Landholding Agency: COE
Property Number: 31199010038
Status: Underutilized
Reason: Floodway

Tract AA–2726
Wolf Creek Dam and Lake
Cumberland
KY HWY. 80 to route 769
Burnside Co: Pulaski KY 42519–
Landholding Agency: COE
Property Number: 31199010039
Status: Underutilized
Reason: Floodway

Tract 1358
Barkley Lake, Kentucky and
Tennessee
Eddyville Recreation Area
Eddyville Co: Lyon KY 42038–
Location: US Highway 62 to state highway 93.
Landholding Agency: COE
Property Number: 31199010043
Status: Excess
Reason: Floodway

Red River Lake Project
Stanton Co: Powell KY 40380–
Location: Exit Mr. Parkway at the Stanton and Slade Interchange, then take SR Hand 15 north to SR 613.

Landholding Agency: COE
Property Number: 31199011684
Status: Unutilized
Reason: Floodway

Barren River Lock & Dam No. 1
Richardsville Co: Warren KY 42270–
Landholding Agency: COE
Property Number: 31199120008
Status: Unutilized
Reason: Floodway

Green River Lock & Dam No. 3
Rochester Co: Butler KY 42273–
Location: Off State Hwy. 369, which runs off of Western Ky. Parkway
Landholding Agency: COE
Property Number: 31199120009
Status: Unutilized
Reason: Floodway

Green River Lock & Dam No. 4
Woodbury Co: Butler KY 42288–
Location: Off State Hwy. 403, which is off of State Hwy. 231
Landholding Agency: COE
Property Number: 31199120014
Status: Underutilized
Reason: Floodway

Green River Lock & Dam No. 5
Readville Co: Butler KY 42275–
Location: Off State Highway 185
Landholding Agency: COE
Property Number: 31199120015
Status: Unutilized
Reason: Floodway

Green River Lock & Dam No. 6
Brownsville Co: Edmonson KY 42210–
Location: Off State Highway 259
Landholding Agency: COE
Property Number: 31199120016
Status: Underutilized
Reason: Floodway

Vacant land west of locksite
Greenup Locks and Dam
5121 New Dam Road
Rural Co: Greenup KY 41144–
Landholding Agency: COE
Property Number: 31199120017
Status: Unutilized
Reason: Floodway

Tract 6404, Cave Run Lake
U.S. Hwy 460
Index Co: Morgan KY
Landholding Agency: COE
Property Number: 31199240005
Status: Underutilized
Reason: Floodway

Tract 6803, Cave Run Lake
State Road 1161
Pomp Co: Morgan KY
Landholding Agency: COE
Property Number: 31199240006
Status: Underutilized
Reason: Floodway

8.04 acres
Taylorsville Lake Project
Taylorsville Co: Spenser KY 40071–9801
Landholding Agency: COE
Property Number: 31199840003
Status: Unutilized
Reason: inaccessible

Patriot Boat Ramp Land
Wade & Goose Creeks
Patriot Co: Boone KY 00000–
Landholding Agency: COE
Property Number: 31200010003
Status: Unutilized
Reason: Floodway

9 Tracts
Daniel Boone National Forest
Co: Owsley KY 37902–
Landholding Agency: GSA
Property Number: 54199620012
Status: Excess
Reason: Floodway
GSA Number: 4–G–KY–607

Maryland

Tract 131R
Youghiogheny River Lake, Rt. 2, Box 100
Friendsville Co: Garrett MD
Landholding Agency: COE
Property Number: 31199240007
Status: Underutilized
Reason: Floodway

Michigan

Port/EPA Large Lakes Rsch Lab
Grosse Ile Twp Co: Wayne MI
Landholding Agency: GSA
Property Number: 54199720022
Status: Excess
Reason: Within airport runway clear zone
GSA Number: 1–Z–MI–554–A

Minnesota

Parcel G
Pine River
Cross Lake Co: Crow Wing MN 56442–
Location: 3 miles from city of Cross Lake between highways 6 and 371.
Landholding Agency: COE
Property Number: 31199011037
Status: Excess
Reason: highway right of way

Mississippi

Parcel 1
Grenada Lake
Section 20
Grenada Co: Grenada MS 38901–0903
Landholding Agency: COE
Property Number: 31199011018
Status: Underutilized
Reason: Within airport runway clear zone

Missouri

Ditch 19, Item 2, Tract No. 230
St. Francis Basin Project
2½ miles west of Malden
Co: Dunklin MO
Landholding Agency: COE
Property Number: 31199130001
Status: Unutilized
Reason: Floodway

New York

Braddock Point Light Land
0.8 acres
Parma Co: NY 10950–
Landholding Agency: GSA
Property Number: 54199910021
Status: Excess
Reason: inaccessible
GSA Number: 1–U–NY–870

Ohio

Mosquito Creek Lake
Everett Hull Road Boat Launch
Cortland Co: Trumbull OH 44410–9321
Landholding Agency: COE
Property Number: 31199440007
Status: Underutilized
Reason: Floodway

Mosquito Creek Lake
Housel—Craft Rd., Boat Launch
Cortland Co: Trumbull OH 44410–9321
Landholding Agency: COE
Property Number: 31199440008
Status: Underutilized
Reason: Floodway

36 Site Campground
German Church Campground
Berlin Center Co: Portage OH 44401–9707
Landholding Agency: COE
Property Number: 31199810001
Status: Unutilized
Reason: Floodway

Lewis Research Center
Cedar Point Road
Cleveland Co: Cuyahoga OH 44135–
Landholding Agency: GSA
Property Number: 54199610007
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material, within airport runway clear zone
GSA Number: 2–Z–OH–598–I

Pennsylvania

Lock and Dam #7
Monongahela River
Greensboro Co: Greene PA
Location: Left hand side of entrance roadway to project.
Landholding Agency: COE
Property Number: 31199011564
Status: Unutilized
Reason: Floodway

Mercer Recreation Area
Shenango Lake
Transfer Co: Mercer PA 16154–
Landholding Agency: COE
Property Number: 31199810002
Status: Unutilized
Reason: Floodway

Grays Landing
Tract B, 101–07
Co: Fayette PA
Landholding Agency: GSA
Property Number: 54199810005
Status: Excess
Reason: landlocked
GSA Number: 4–D–PA–784

Puerto Rico

119.3 acres
Culebra Island PR 00775–
Landholding Agency: Interior
Property Number: 61199210001
Status: Excess
Reason: Floodway

Tennessee

Brooks Bend
Cordell Hull Dam and Reservoir
Highway 85 to Brooks Bend Road
Gainsboro Co: Jackson TN 38562–
Location: Tracts 800, 802–806, 835–837, 900–902, 1000–1003, 1025
Landholding Agency: COE
Property Number: 21199040413
Status: Underutilized
Reason: Floodway

Cheatham Lock and Dam
Highway 12
Ashland City Co: Cheatham TN 37015–
Location: Tracts E–513, E–512–1 and E–512–2
Landholding Agency: COE

Property Number: 21199040415
Status: Underutilized
Reason: Floodway

Tract 6737
Blue Creek Recreation Area
Barkley Lake, Kentucky and Tennessee
Dover Co: Stewart TN 37058–
Location: U.S. Highway 79/TN Highway 761
Landholding Agency: COE
Property Number: 31199011478
Status: Underutilized
Reason: Floodway

Tracts 3102, 3105, and 3106
Brimstone Launching Area
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562–
Location: Big Bottom Road
Landholding Agency: COE
Property Number: 31199011479
Status: Excess
Reason: Floodway

Tract 3507
Proctor Site
Cordell Hull Lake and Dam Project
Celina Co: Clay TN 38551–
Location: TN Highway 52
Landholding Agency: COE
Property Number: 31199011480
Status: Unutilized
Reason: Floodway

Tract 3721
Obey
Cordell Hull Lake and Dam Project
Celina Co: Clay TN 38551–
Location: TN Highway 53
Landholding Agency: COE
Property Number: 31199011481
Status: Unutilized
Reason: Floodway

Tracts 608, 609, 611 and 612
Sullivan Bend Launching Area
Cordell Hull Lake and Dam Project
Carthage Co: Smith TN 37030–
Location: Sullivan Bend Road
Landholding Agency: COE
Property Number: 31199011482
Status: Underutilized
Reason: Floodway

Tract 920
Indian Creek Camping Area
Cordell Hull Lake and Dam Project
Granville Co: Smith TN 38564–
Location: TN Highway 53
Landholding Agency: COE
Property Number: 31199011483
Status: Underutilized
Reason: Floodway

Tracts 1710, 1716 and 1703
Flynns Lick Launching Ramp
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562–
Location: Whites Bend Road
Landholding Agency: COE
Property Number: 31199011484
Status: Underutilized
Reason: Floodway

Tract 1810
Wartrace Creek Launching Ramp
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38551–
Location: TN Highway 85
Landholding Agency: COE
Property Number: 31199011485
Status: Underutilized
Reason: Floodway

Tract 2524
Jennings Creek
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562–
Location: TN Highway 85
Landholding Agency: COE
Property Number: 31199011486
Status: Unutilized
Reason: Floodway

Tracts 2905 and 2907
Webster
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38551–
Location: Big Bottom Road
Landholding Agency: COE
Property Number: 31199011487
Status: Unutilized
Reason: Floodway

Tracts 2200 and 2201
Gainesboro Airport
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562
Location: Big Bottom Road
Landholding Agency: COE
Property Number: 31199011488
Status: Underutilized
Reason: Within airport runway clear zone, Floodway

Tracts 710C and 712C
Sullivan Island
Cordell Hull Lake and Dam Project
Carthage Co: Smith TN 37030–
Location: Sullivan Bend Road
Landholding Agency: COE
Property Number: 31199011489
Status: Unutilized
Reason: Floodway

Tracts 2403, Hensley Creek
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562–
Location: TN Highway 85
Landholding Agency: COE
Property Number: 31199011490
Status: Unutilized
Reason: Floodway

Tracts 2117C, 2118, and 2120
Cordell Hull Lake and Dam Project
Trace Creek
Gainesboro Co: Jackson TN 38562–
Location: Brooks Ferry Road
Landholding Agency: COE
Property Number: 31199011491
Status: Unutilized
Reason: Floodway

Tracts 424, 425 and 426
Cordell Hull Lake and Dam Project
Stone Bridge
Carthage Co: Smith TN 37030–
Location: Sullivan Bend Road
Landholding Agency: COE
Property Number: 31199011492
Status: Unutilized
Reason: Floodway

Tract 517
J. Percy Priest Dam and Reservoir
Suggs Creek Embayment
Nashville Co: Davidson TN 37214–
Location: 40 to S. Mount Juliet Road.
Landholding Agency: COE
Property Number: 31199011493
Status: Underutilized
Reason: Floodway

Tract 1811
West Fork Launching Area
Smyrna Co: Rutherford TN 37167–
Location: Florence Road near Enon Springs Road
Landholding Agency: COE
Property Number: 31199011494
Status: Underutilized
Reason: Floodway

Tract 1504
J. Perry Priest Dam and Reservoir
Lamon Hill Recreation Area
Smyrna Co: Rutherford TN 37167–
Location: Lamon Road
Landholding Agency: COE
Property Number: 31199011495
Status: Underutilized
Reason: Floodway

Tract 1500
J. Perry Priest Dam and Reservoir
Pools Knob Recreation
Smyrna Co: Rutherford TN 37167–
Location: Jones Mill Road
Landholding Agency: COE
Property Number: 31199011496
Status: Underutilized
Reason: Floodway

Tracts 245, 257, and 256
J. Perry Priest Dam and Reservoir
Cook Recreation Area
Nashville Co: Davidson TN 37214–
Location: 2.2 miles south of Interstate 40 near Saunders Ferry Pike.
Landholding Agency: COE
Property Number: 31199011497
Status: Underutilized
Reason: Floodway

Tracts 107, 109 and 110
Cordell Hull Lake and Dam Project
Two Prong
Carthage Co: Smith TN 37030–
Location: US Highway 85
Landholding Agency: COE
Property Number: 31199011498
Status: Unutilized
Reason: Floodway

Tracts 2919 and 2929
Cordell Hull Lake and Dam Project
Sugar Creek
Gainesboro Co: Jackson TN 38562–
Location: Sugar Creek Road
Landholding Agency: COE
Property Number: 31199011500
Status: Unutilized
Reason: Floodway

Tracts 1281 and 1204
Cordell Hull Lake and Dan Project
Granville—Alvin Yourk Road
Granville Co: Jackson TN 38564–
Landholding Agency: COE
Property Number: 31199011501
Status: Unutilized
Reason: Floodway

Tract 2100
Cordell Hull Lake and Dam Project
Gailbreaths Branch
Gainesboro Co: Jackson TN 38562–
Location: TN Highway 53
Landholding Agency: COE
Property Number: 31199011502
Status: Unutilized
Reason: Floodway

Tract 104 et al.
Cordell Hull Lake and Dam Project
Horshoe Bend Launching Area
Carthage Co: Smith TN 37030–

Location: Highway 70 N
Landholding Agency: COE
Property Number: 31199011504
Status: Underutilized
Reason: Floodway

Tracts 510, 511, 513 and 514
J. Percy Priest Dam and Reservoir Project
Lebanon Co: Wilson TN 37087–
Location: Vivrett Creek Launching Area, Alvin Sperry Road
Landholding Agency: COE
Property Number: 31199120007
Status: Underutilized
Reason: Floodway

Tract A–142, Old Hickory Beach
Old Hickory Blvd.
Old Hickory Co: Davidson TN 37138–
Landholding Agency: COE
Property Number: 31199130008
Status: Underutilized
Reason: Floodway

Texas

Tracts 104, 105–1, 105–2 & 118
Joe Pool Lake
Co: Dallas TX
Landholding Agency: COE
Property Number: 31199010397
Status: Underutilized
Reason: Floodway

Part of Tract 201–3
Joe Pool Lake
Co: Dallas TX
Landholding Agency: COE
Property Number: 31199010398
Status: Underutilized
Reason: Floodway

Part of Tract 323
Joe Pool Lake
Co: Dallas TX
Landholding Agency: COE
Property Number: 31199010399
Status: Underutilized
Reason: Floodway

Tract 702–3
Granger Lake
Route 1, Box 172
Granger Co: Williamson TX 76530–9801
Landholding Agency: COE
Property Number: 31199010401
Status: Unutilized
Reason: Floodway

Tract 706
Granger Lake
Route 1, Box 172
Granger Co: Williamson TX 76530–9801
Landholding Agency: COE
Property Number: 31199010402
Status: Unutilized
Reason: Floodway

Washington

Spokane Satellite Tracking #1
Fairchild AFB
Portion of Site
Spokane WA 99224–
Landholding Agency: COE
Property Number: 18199810028
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 9–D–WA–1172

West Virginia

Morgantown Lock and Dam
Box 3 RD #2
Morgantown Co: Monongahelia WV 26505–
Landholding Agency: COE
Property Number: 31199011530
Status: Unutilized
Reason: Floodway

London Lock and Dam
Route 60 East
Rural Co: Kanawha WV 25126–
Location: 20 miles east of Charleston, W. Virginia.
Landholding Agency: COE
Property Number: 31199011690
Status: Unutilized
Reason: .03 acres; very narrow strip of land

Portion of Tract #101
Buckeye Creek
Sutton Co: Braxton WV 26601–
Landholding Agency: COE
Property Number: 31199810006
Status: Excess
Reason: inaccessible

Wyoming

Cody Industrial Area
Cody Co: Park WY 82414–
Landholding Agency: GSA
Property Number: 54199740008
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 7–I–WY–0539

[FR Doc. 00–4312 Filed 2–24–00; 8:45 am]

BILLING CODE 4210–29–M

Federal Register

Friday,
February 25, 2000

Part V

Department of Housing and Urban Development

Annual Factors for Determining Public Housing Agency Ongoing Administrative Fees for the Section 8 Housing Choice Voucher Program and the Rental Certificate and Moderate Rehabilitation Programs; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4455–N–02]

Notice of Annual Factors for Determining Public Housing Agency Ongoing Administrative Fees for the Section 8 Housing Choice Voucher Program and the Rental Certificate and Moderate Rehabilitation Programs

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: This notice announces the monthly per unit fee amounts for use in determining the on-going administrative fee for public housing agencies (PHAs) administering the Section 8 housing choice voucher program, and the rental certificate and moderate rehabilitation programs (including Single Room Occupancy and Shelter Plus Care) during Federal Fiscal Year (FY) 2000.

EFFECTIVE DATE: This notice is effective upon publication. HUD will use the procedures in this Notice to approve year-end financial statements for PHA fiscal years ending on December 31, 1999; March 31, 2000; June 30, 2000; and September 30, 2000. PHAs also must use these procedures to project earned administrative fees in the annual PHA budget. The procedures in this Notice apply to on-going administrative fees earned for that portion of the PHA fiscal year that falls in Federal FY 2000 (*i.e.,* from October 1, 1999, to September 30, 2000).

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, Room 4210, 451 Seventh Street, SW, Washington, DC 20410–8000; telephone number (202) 708–0477 (this is not a toll-free telephone number). Hearing or speech impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Statutory Background

HUD pays administrative fees to PHAs for the costs of administering the on-going Section 8 housing choice voucher program and the rental certificate and moderate rehabilitation programs, including the Single Room Occupancy and Shelter Plus care components. Section 202 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Pub. L. 104–204, 110 Stat. 2874, approved September 26, 1996) established the procedures for calculating these administrative fees before Federal FY 1999. The procedures were superseded by subsection 8(q) of the United States Housing Act of 1937 (42 U.S.C. 1437f(q)), as amended by section 547 of the Quality Housing and Work Responsibility Act of 1998 (Pub. L. 105–276, 112 Stat. 2461, approved October 21, 1998) (QHWRA). Specifically, QHWRA raised the percentage (from 7.5 percent to 7.65 percent) of the ''base amount'' used for calculating the administrative fees for the first 600 units in a PHA's Section 8 programs. The Department of Veterans Affairs and Housing and Urban Development and Independent Agencies FY 2000 Appropriations Act (Pub. L. 106–74, Stat. 2684, approved October 20, 1999) provided that the administrative fee authorized under section 8(q) of United States Housing Act of 1937, as amended by QHWRA October 21, 1998, shall be as was in effect immediately before the enactment of the QHWRA of 1998. This reduced the percent used for calculating the administrative fees for the first 600 units in a PHA's Section 8 program from 7.65 percent to 7.5 percent.

This notice announces the monthly per unit fee amounts for use in determining the on-going administrative fee for PHAs administering the Section 8 housing choice voucher program and the rental certificate and moderate rehabilitation programs (including Single Room Occupancy and Shelter Plus Care) during FY 2000, and describes the methodology for calculating the administrative fees.

A PHA may have its Section 8 on-going administrative fee reduced for failure to report the percent of its program participants to the Multifamily Tenant Characteristics System as required by HUD. PIH Notice 99–2(PHA), currently requires PHAs to report for 85 percent of its program participants at the end of June and December.

II. Calculating the On-Going Monthly Administrative Fee

(a) *Administrative Fee.* A public housing agency is paid an on-going administrative fee for each unit month for which a dwelling unit is covered by a housing assistance payments contract. Under the system for FY 2000, the on-going monthly administrative fee is:

- 7.5 percent of the ''base amount'' for the first 600 units in a PHA's housing choice voucher and rental certificate programs combined, and for the first 600 units in a PHA's moderate rehabilitation program.
- 7.0 percent of the ''base amount'' for each additional housing choice voucher, rental certificate, or moderate rehabilitation unit above the 600-unit threshold.
- 3.0 percent of the ''base amount'' will be allowed for PHA-owned units.

(b) *The Base Amount.* The ''Base Amount'' is the higher of:

1. The FY 1993 fair market rent for a two-bedroom unit in the PHA's market area; or

2. The FY 1994 fair market rent for a two-bedroom unit, but not more than 103.5 percent of the FY 1993 fair market rent.

Note: The base amount is adjusted annually to reflect average local government wages as measured by the most recent Bureau of Labor Statistics data on local government wages (the ES–202 series).

(c) *Special Fees.*

1. *Preliminary Fees.* HUD may pay preliminary fees up to $500 per unit for preliminary expenses to PHAs only in the first year the PHA administers a tenant-based assistance program, and only if the first year of administering the Section 8 program was begun prior to October 21, 1998. Unless requested by HUD, the PHA is not required to submit its justification for claimed preliminary fees to HUD. The justifications for preliminary fees must be kept on file and must be available to the HUD Field Office upon request.

2. *Hard to House Fee.* HUD may pay a special fee for costs incurred in assisting families who experience difficulty, as determined by the Secretary, in obtaining appropriate housing under the Section 8 programs.

3. *Fee for Extraordinary Costs.* HUD may pay a special one time fee for extraordinary costs incurred by the PHA in the operation of the Section 8 program, as approved by the Secretary.

4. *Housing Conversion Actions.* HUD may pay a special fee for costs incurred by the PHA for housing conversion actions associated with the administration of certain types of ''special purpose'' tenant-based assistance. The amount of such fee cannot exceed $250. The following are housing conversion actions: (a) preservation; (b) mortgage prepayment or voluntary termination actions; (c) opt-out; (d) HUD enforcement action; and (e) HUD property disposition actions. (See PIH Notice 99–40 for information on the availability of the new special fee to reimburse PHAs for housing conversion action costs incurred.)

III. Published Fee Amounts

HUD has attached a schedule of monthly per unit fee amounts for use by HUD and PHAs when preparing and approving PHA budgets and fiscal year-end financial statements. The tables are organized by the HUD-established fair market rent areas and show the monthly fee amounts a PHA will earn for each unit under a housing assistance payments contract on the first day of the applicable month.

(a) *Column A: Fees for 600 Units or Less.* The amount in column A is the monthly per unit fee amount to be applied for up to the first 600 units (or 7,200 unit months) in FY 2000 in a PHA's rental certificate and housing choice voucher programs combined (not including any PHA-owned units). The 7,200 unit month figure is determined by multiplying 600 (the maximum number of units) by 12 (the number of months in one year). The amount in column A is also used for the first 7,200 unit months in FY 2000 in a PHA's moderate rehabilitation program, including the moderate rehabilitation single room occupancy program and the shelter plus care single room occupancy program (not including any PHA-owned units).

The monthly per unit fee is computed by multiplying the number of unit months that were under a housing assistance payments contract during FY 2000 by the monthly per unit fee amount in column A (up to a maximum of 7,200 unit months during FY 2000). The maximum number of unit months for which the column A fee amount may be used depends on the PHA fiscal year end. Based on the applicable fiscal year end, a PHA must use the following number of unit months to calculate its ongoing administrative fee for FY 2000:

PHA fiscal year end	Maximum number of unit months
December 31, 1999 ..	Up to 1,800 unit months.
March 31, 2000	Up to 3,600 unit months.
June 30, 2000	Up to 5,400 unit months.
September 30, 2000	Up to 7,200 unit months.

(b) *Column B: Fees for Unit Months in Excess of the Column A Unit Months.* Column B must be used to determine the monthly per unit fee amount for any unit months in FY 2000 in excess of the number of unit months specified in the above matrix, depending on the PHA's fiscal year end (not including any PHA-owned units). The excess unit months, based on the PHA's fiscal year end and the number of housing choice voucher, rental certificate and moderate rehabilitation units under housing assistance payment contracts during FY 2000, are multiplied by the monthly per unit fee amount in column B.

(c) *Column C: Fees for PHA-Owned Units.* The monthly per unit fee amount in column C will be multiplied by the number of unit months available for the housing choice voucher, rental certificate, and moderate rehabilitation units owned by the HA and that are under housing assistance payments contracts during FY 2000. Column A and column B fee amounts are not used for PHA-owned units.

(d) *Fees for Unit Under Portability.* The on-going fee amounts used for reimbursing receiving PHAs for all portable units will be determined by using the monthly per unit on-going administrative fee amounts in column B for the initial PHA.

(e) *Future year publication date.* For subsequent fiscal years, HUD will publish an annual notice in the **Federal Register** establishing the monthly per unit fee amounts for use in determining the on-going administrative fees for PHAs operating the housing choice voucher program and the rental certificate and moderate rehabilitation programs in each metropolitan and each non-metropolitan fair market rent area for that Federal fiscal year. The annual change in the per-unit-month fee amounts will be based on changes in wage data or other objectively measurable data, as determined by HUD, that reflect the costs of administering the program.

The amounts shown on the attached schedule do not reflect the authority given to HUD to increase the fee if necessary to reflect extraordinary expenses such as the higher costs of administering small programs and programs operating over large geographic areas or expenses incurred because of difficulties some categories of families are having in finding appropriate housing. HUD will consider HA requests for such increased administrative fees. Furthermore, the amounts shown do not include preliminary fees.

IV. Findings and Certifications

Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and have been assigned OMB control number 2577–0149. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Environmental Impact

In accordance with 24 CFR 50.19(c)(6) of the HUD regulations, the policies and procedures contained in this notice set forth rate determinations and related external administrative requirements and procedures which do not constitute a development decision that affects the physical condition of specific project areas or building sites, and therefore are categorically excluded from the requirements of the national Environmental Policy Act.

Executive Order 13132, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 13132, *Federalism,* has determined that the policies contained in this notice will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the notice is not subject to review under the Order. This notice pertains to the determination of administrative fees for HAs administering the housing choice voucher program and the rental certificate and moderate rehabilitation programs during FY 1999, and does not substantially alter the established roles of the Department, the States, and local governments.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number for this program is 14.850.

Dated: February 11, 2000.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

BILLING CODE 4210–33–P

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

A L A B A M A

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Anniston, AL MSA	39.13	36.52	15.65	Calhoun
Birmingham, AL MSA	40.23	37.55	16.09	Blount, St. Clair, Jefferson, Shelby
Columbus, GA-AL MSA	38.14	35.59	15.26	Russell
Decatur, AL MSA	39.13	36.52	15.65	Morgan, Lawrence
Dothan, AL MSA	39.22	36.61	15.69	Houston, Dale
Florence, AL MSA	39.13	36.52	15.65	Lauderdale, Colbert
Gadsden, AL MSA	39.13	36.52	15.65	Etowah
Huntsville, AL MSA	40.87	38.15	16.35	Limestone, Madison
Mobile, AL MSA	40.86	38.14	16.35	Baldwin, Mobile
Montgomery, AL MSA	39.13	36.52	15.65	Autauga, Montgomery, Elmore
Tuscaloosa, AL MSA	39.46	36.83	15.78	Tuscaloosa

NONMETROPOLITAN COUNTIES	A	B	C
Barbour	39.20	36.58	15.68
Bibb	39.20	36.58	15.68
Cherokee	39.20	36.58	15.68
Butler	39.20	36.58	15.68
Coosa	39.20	36.58	15.68
Coffee	39.20	36.58	15.68
Clay	39.20	36.58	15.68
Choctaw	39.20	36.58	15.68
Macon	39.20	36.58	15.68
Jackson	39.20	36.58	15.68
Hale	39.20	36.58	15.68
Geneva	39.20	36.58	15.68
Fayette	39.20	36.58	15.68
Dekalb	39.20	36.58	15.68
Cullman	39.20	36.58	15.68
Winston	39.20	36.58	15.68
Washington	39.20	36.58	15.68
Tallapoosa	39.20	36.58	15.68
Sumter	39.20	36.58	15.68
Pike	39.20	36.58	15.68
Perry	39.20	36.58	15.68
Marshall	39.20	36.58	15.68
Marengo	39.20	36.58	15.68

NONMETROPOLITAN COUNTIES	A	B	C
Bullock	39.20	36.58	15.68
Chilton	39.20	36.58	15.68
Chambers	39.20	36.58	15.68
Covington	39.20	36.58	15.68
Conecuh	39.20	36.58	15.68
Cleburne	39.20	36.58	15.68
Clarke	39.20	36.58	15.68
Lamar	39.20	36.58	15.68
Lowndes	39.20	36.58	15.68
Henry	39.20	36.58	15.68
Greene	39.20	36.58	15.68
Franklin	39.20	36.58	15.68
Escambia	39.20	36.58	15.68
Dallas	39.20	36.58	15.68
Crenshaw	39.20	36.58	15.68
Wilcox	39.20	36.58	15.68
Walker	39.20	36.58	15.68
Talladega	39.20	36.58	15.68
Randolph	39.20	36.58	15.68
Pickens	39.20	36.58	15.68
Monroe	39.20	36.58	15.68
Marion	39.20	36.58	15.68

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

A L A S K A

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Anchorage, AK MSA	58.25	54.37	23.30	Anchorage

NONMETROPOLITAN COUNTIES	A	B	C
Northwest Arctic	58.19	54.31	23.27
Nome	63.38	59.16	25.35
Lake & Peninsula	58.19	54.31	23.27
Ketchikan Gateway	70.25	65.57	28.10
Juneau	70.25	65.57	28.10
Fairbanks North StAR	60.20	56.19	24.08
Bristol Bay	61.24	57.17	24.50
Aleutian West	61.24	57.17	24.50
Yukon-Koyukuk	61.24	57.17	24.50
Wade Hampton	61.24	57.17	24.50
Southeast FairbankS	50.41	47.06	20.16
Sitka	68.78	64.19	27.51

NONMETROPOLITAN COUNTIES	A	B	C
North Slope	63.38	59.16	25.35
Matanuska-Susitna	52.06	48.59	20.82
Kodiak Island	70.25	65.57	28.10
Kenai Peninsula	56.57	52.80	22.63
Haines	61.24	57.17	24.50
Dillingham	63.38	59.16	25.35
Bethel	63.38	59.16	25.35
Aleutian East	61.24	57.17	24.50
Wrangell-PetersburG	68.78	64.19	27.51
Valdez-Cordova	70.25	65.57	28.10
Skagway-Yakutat-AnGOON	61.24	57.17	24.50
Pr.Wales-Outer KetCHIKAN	61.24	57.17	24.50

A R I Z O N A

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Flagstaff, AZ	49.39	46.10	19.76	Coconino
Las Vegas, NV-AZ MSA	60.28	55.69	23.86	Mohave
Phoenix-Mesa, AZ MSA	45.17	42.16	18.07	Pinal, Maricopa
Tucson, AZ MSA	44.66	41.68	17.86	Pima
Yuma, AZ MSA	50.19	46.84	20.08	Yuma

NONMETROPOLITAN COUNTIES	A	B	C
Cochise	36.90	33.76	14.47
Yavapai	46.00	42.10	18.04
Navajo	36.24	33.17	14.21
Greenlee	36.90	33.76	14.47
Gila	37.56	34.37	14.73
Apache	36.24	33.17	14.21
Santa Cruz	38.19	34.95	14.98
La Paz	46.82	42.85	18.36
Graham	36.90	33.76	14.47

A R K A N S A S

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Fayetteville-Springdale-Rogers, AR MSA	36.31	33.88	14.52	Benton, Washington
Fort Smith, AR-OK MSA	36.31	33.88	14.52	Crawford, Sebastian
Jonesboro, AR MSA	36.31	33.88	14.52	Craighead
Little Rock-North Little Rock, AR MSA	39.61	36.97	15.84	Faulkner, Saline, Pulaski, Lonoke
Memphis, TN-AR-MS MSA	41.71	38.94	16.69	Crittenden

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

111599

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

A R K A N S A S continued

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Pine Bluff, AR MSA	36.31	33.88	14.52	Jefferson
Texarkana, TX-Texarkana, AR MSA	36.47	34.03	14.59	Miller

NONMETROPOLITAN COUNTIES	A	B	C
Ashley	36.21	33.79	14.49
Calhoun	36.21	33.79	14.49
Boone	36.21	33.79	14.49
Conway	36.21	33.79	14.49
Cleveland	36.21	33.79	14.49
Clay	36.21	33.79	14.49
Chicot	36.21	33.79	14.49
Cross	36.21	33.79	14.49
Dallas	36.21	33.79	14.49
Fulton	36.21	33.79	14.49
Drew	36.21	33.79	14.49
Izard	36.21	33.79	14.49
Howard	36.21	33.79	14.49
Hempstead	36.21	33.79	14.49
Grant	36.21	33.79	14.49
Van Buren	36.21	33.79	14.49
Stone	36.21	33.79	14.49
Sevier	36.21	33.79	14.49
Scott	36.21	33.79	14.49
Randolph	36.21	33.79	14.49
Pope	36.21	33.79	14.49
Poinsett	36.21	33.79	14.49
Phillips	36.21	33.79	14.49
Ouachita	36.21	33.79	14.49
Nevada	36.21	33.79	14.49
Monroe	36.21	33.79	14.49
Marion	36.21	33.79	14.49
Logan	36.21	33.79	14.49
Lincoln	36.21	33.79	14.49
Lawrence	36.21	33.79	14.49
Johnson	36.21	33.79	14.49
Woodruff	36.21	33.79	14.49

NONMETROPOLITAN COUNTIES	A	B	C
Arkansas	36.21	33.79	14.49
Bradley	36.21	33.79	14.49
Baxter	36.21	33.79	14.49
Columbia	36.21	33.79	14.49
Cleburne	36.21	33.79	14.49
Clark	36.21	33.79	14.49
Carroll	36.21	33.79	14.49
Desha	36.21	33.79	14.49
Garland	36.21	33.79	14.49
Franklin	36.21	33.79	14.49
Jackson	36.21	33.79	14.49
Independence	36.21	33.79	14.49
Hot Spring	36.21	33.79	14.49
Greene	36.21	33.79	14.49
White	36.21	33.79	14.49
Union	36.21	33.79	14.49
Sharp	36.21	33.79	14.49
Searcy	36.21	33.79	14.49
St. Francis	36.21	33.79	14.49
Prairie	36.21	33.79	14.49
Polk	36.21	33.79	14.49
Pike	36.21	33.79	14.49
Perry	36.21	33.79	14.49
Newton	36.21	33.79	14.49
Montgomery	36.21	33.79	14.49
Mississippi	36.21	33.79	14.49
Madison	36.21	33.79	14.49
Little River	36.21	33.79	14.49
Lee	36.21	33.79	14.49
Lafayette	36.21	33.79	14.49
Yell	36.21	33.79	14.49

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

C A L I F O R N I A

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Bakersfield, CA MSA	50.80	47.41	20.32	Kern
Chico-Paradise, CA MSA	44.64	41.66	17.86	Butte
Fresno, CA MSA	46.44	43.34	18.58	Madera, Fresno
Los Angeles-Long Beach, CA PMSA	66.66	62.22	26.66	Los Angeles
Merced, CA MSA	43.65	40.73	17.46	Merced
Modesto, CA MSA	48.91	45.65	19.56	Stanislaus
Oakland, CA PMSA	66.66	62.22	26.66	Alameda, Contra Costa
Orange County, CA PMSA	66.66	62.22	26.66	Orange
Redding, CA MSA	46.44	43.34	18.58	Shasta
Riverside-San Bernardino, CA PMSA	53.18	49.64	21.27	Riverside, San Bernardino
Sacramento, CA PMSA	50.62	47.24	20.25	El Dorado, Sacramento, Placer
Salinas, CA MSA	57.43	53.60	22.97	Monterey
San Diego, CA MSA	59.59	55.62	23.84	San Diego
San Francisco, CA PMSA	66.66	62.22	26.66	San Mateo, San Francisco, Marin
San Jose, CA PMSA	66.66	62.22	26.66	Santa Clara
San Luis Obispo-Atascadero-Paso Robles, CA MSA	57.70	53.86	23.08	San Luis Obispo
Santa Barbara-Santa Maria-Lompoc, CA MSA	65.09	60.75	26.04	Santa Barbara
Santa Cruz-Watsonville, CA PMSA	66.66	62.22	26.66	Santa Cruz
Santa Rosa, CA PMSA	65.02	60.69	26.01	Sonoma
Stockton-Lodi, CA MSA	48.58	45.34	19.43	San Joaquin
Vallejo-Fairfield-Napa, CA PMSA	57.87	54.01	23.15	Napa, Solano
Ventura, CA PMSA	66.66	62.22	26.66	Ventura
Visalia-Tulare-Porterville, CA MSA	43.32	40.43	17.33	Tulare
Yolo, CA PMSA	50.62	47.24	20.25	Yolo
Yuba City, CA MSA	38.30	35.75	15.32	Yuba, Sutter

NONMETROPOLITAN COUNTIES	A	B	C
Colusa	38.52	35.95	15.41
Amador	50.92	47.52	20.37
Lassen	42.54	39.70	17.02
Kings	41.88	39.09	16.75
Imperial	48.29	45.07	19.32
Glenn	38.52	35.95	15.41
Tuolumne	50.92	47.52	20.37
Tehama	42.54	39.70	17.02
Sierra	57.08	53.27	22.83
Plumas	42.54	39.70	17.02
Mono	52.70	49.19	21.08
Mendocino	50.10	46.76	20.04

NONMETROPOLITAN COUNTIES	A	B	C
Calaveras	50.92	47.52	20.37
Alpine	50.92	47.52	20.37
Lake	46.48	43.38	18.59
Inyo	50.92	47.52	20.37
Humboldt	47.88	44.69	19.15
Del Norte	46.48	43.38	18.59
Trinity	46.48	43.38	18.59
Siskiyou	42.54	39.70	17.02
San Benito	52.70	49.19	21.08
Nevada	57.08	53.27	22.83
Modoc	42.54	39.70	17.02
Mariposa	50.92	47.52	20.37

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

111599

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

C O L O R A D O

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Boulder-Longmont, CO PMSA	52.28	48.79	20.91	Boulder
Colorado Springs, CO MSA	42.98	40.11	17.19	El Paso
Denver, CO PMSA	46.07	43.00	18.43	Arapahoe, Adams, Jefferson, Douglas, Denver
Fort Collins-Loveland, CO MSA	49.54	46.24	19.82	Larimer
Grand Junction, CO MSA	53.89	50.30	21.56	Mesa
Greeley, CO PMSA	42.72	39.88	17.09	Weld
Pueblo, CO MSA	42.55	39.71	17.02	Pueblo

NONMETROPOLITAN COUNTIES	A	B	C	NONMETROPOLITAN COUNTIES	A	B	C
Alamosa	43.91	40.98	17.57	Costilla	43.91	40.98	17.57
Conejos	43.91	40.98	17.57	Clear Creek	48.74	45.49	19.50
Cheyenne	37.59	35.08	15.04	Chaffee	48.74	45.49	19.50
Bent	37.59	35.08	15.04	Baca	37.59	35.08	15.04
Archuleta	43.91	40.98	17.57	Kit Carson	37.59	35.08	15.04
Kiowa	37.59	35.08	15.04	Jackson	58.05	54.18	23.22
Huerfano	43.91	40.98	17.57	Hinsdale	58.05	54.18	23.22
Gunnison	58.05	54.18	23.22	Grand	58.05	54.18	23.22
Gilpin	50.45	47.09	20.18	Garfield	55.50	51.80	22.20
Fremont	48.74	45.49	19.50	Elbert	38.90	36.31	15.56
Eagle	60.09	56.07	24.03	Dolores	43.91	40.98	17.57
Delta	58.05	54.18	23.22	Custer	48.74	45.49	19.50
Crowley	37.59	35.08	15.04	Yuma	37.59	35.08	15.04
Washington	37.59	35.08	15.04	Teller	49.01	45.74	19.60
Summit	58.05	54.18	23.22	Sedgwick	37.59	35.08	15.04
San Miguel	60.09	56.07	24.03	San Juan	43.91	40.98	17.57
Saguache	43.91	40.98	17.57	Routt	58.05	54.18	23.22
Rio Grande	43.91	40.98	17.57	Rio Blanco	55.50	51.80	22.20
Prowers	37.59	35.08	15.04	Pitkin	60.09	56.07	24.03
Phillips	37.59	35.08	15.04	Park	48.74	45.49	19.50
Ouray	58.05	54.18	23.22	Otero	37.59	35.08	15.04
Morgan	37.59	35.08	15.04	Montrose	58.05	54.18	23.22
Montezuma	43.91	40.98	17.57	Moffat	55.50	51.80	22.20
Mineral	43.91	40.98	17.57	Logan	37.59	35.08	15.04
Lincoln	37.59	35.08	15.04	Las Animas	43.91	40.98	17.57
La Plata	49.79	46.48	19.92	Lake	48.74	45.49	19.50

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

C O N N E C T I C U T

METROPOLITAN FMR AREAS	A	B	C	Components of FMR AREA within STATE
Bridgeport, CT PMSA	63.55	59.32	25.42	Fairfield county towns of Bridgeport town, Easton town Fairfield town, Monroe town, Shelton town Stratford town, Trumbull town New Haven county towns of Ansonia town, Beacon Falls town Derby town, Milford town, Oxford town, Seymour town
Danbury, CT PMSA	68.12	63.59	27.25	Fairfield county towns of Bethel town, Brookfield town Danbury town, New Fairfield town, Newtown town Redding town, Ridgefield town, Sherman town Litchfield county towns of Bridgewater town New Milford town, Roxbury town, Washington town
Hartford, CT MSA	59.90	55.90	23.96	Hartford county towns of Avon town, Berlin town Bloomfield town, Bristol town, Burlington town Canton town, East Granby town, East Hartford town East Windsor town, Enfield town, Farmington town Glastonbury town, Granby town, Hartford town Manchester town, Marlborough town, New Britain town Newington town, Plainville town, Rocky Hill town Simsbury town, Southington town, South Windsor town Suffield town, West Hartford town, Wethersfield town Windsor town, Windsor Locks town Windham county towns of Ashford town, Chaplin town Windham town Tolland county towns of Andover town, Bolton town Columbia town, Coventry town, Ellington town Hebron town, Mansfield town, Somers town, Stafford town Tolland town, Vernon town, Willington town New London county towns of Colchester town, Lebanon town Middlesex county towns of Cromwell town, Durham town East Haddam town, East Hampton town, Haddam town Middlefield town, Middletown town, Portland town Litchfield county towns of Barkhamsted town Harwinton town, New Hartford town, Plymouth town Winchester town
New Haven-Meriden, CT PMSA	66.02	61.62	26.41	Middlesex county towns of Clinton town, Killingworth town New Haven county towns of Bethany town, Branford town Cheshire town, East Haven town, Guilford town Hamden town, Madison town, Meriden town, New Haven town North Branford tow, North Haven town, Orange town Wallingford town, West Haven town, Woodbridge town
New London-Norwich, CT-RI MSA	58.80	54.88	23.52	Middlesex county towns of Old Saybrook town Windham county towns of Canterbury town, Plainfield town New London county towns of Bozrah town, East Lyme town Franklin town, Griswold town, Groton town, Ledyard town Lisbon town, Montville town, New London town North Stonington t, Norwich town, Old Lyme town Preston town, Salem town, Sprague town, Stonington town Waterford town

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

111599

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

C O N N E C T I C U T continued

METROPOLITAN FMR AREAS	A	B	C	Components of FMR AREA within STATE
Stamford-Norwalk, CT PMSA	68.12	63.59	27.25	Fairfield county towns of Darien town, Greenwich town New Canaan town, Norwalk town, Stamford town Weston town, Westport town, Wilton town
Waterbury, CT PMSA	53.90	50.31	21.56	Litchfield county towns of Bethlehem town, Thomaston town Watertown town, Woodbury town New Haven county towns of Middlebury town, Naugatuck town Prospect town, Southbury town, Waterbury town Wolcott town
Worcester, MA-CT PMSA	57.31	53.49	22.92	Windham county towns of Thompson town
NONMETROPOLITAN COUNTIES	A	B	C	Towns within non metropolitan counties
Litchfield	56.77	52.99	22.71	Canaan town, Colebrook town, Cornwall town, Goshen town Kent town, Litchfield town, Morris town, Norfolk town North Canaan town, Salisbury town, Sharon town Torrington town, Warren town
Hartford	53.50	49.94	21.40	Hartland town
Windham	52.66	49.15	21.07	Brooklyn town, Eastford town, Hampton town Killingly town, Pomfret town, Putnam town, Scotland town Sterling town, Woodstock town
Tolland	59.48	55.50	23.79	Union town
New London	45.65	42.60	18.26	Lyme town, Voluntown town
Middlesex	63.64	59.40	25.45	Chester town, Deep River town, Essex town Westbrook town

D E L A W A R E

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Dover, DE MSA	46.96	43.46	18.63	Kent
Wilmington-Newark, DE-MD PMSA	55.15	51.05	21.88	New Castle

NONMETROPOLITAN COUNTIES	A	B	C
Sussex	49.50	46.19	19.80

D I S T . O F C O L U M B I A

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Washington, DC-MD-VA	68.91	64.32	27.57	District Of ColumbIA

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

F L O R I D A

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Daytona Beach, FL MSA	48.10	44.89	19.24	Volusia, Flagler
Fort Lauderdale, FL PMSA	60.96	56.90	24.38	Broward
Fort Myers-Cape Coral, FL MSA	50.45	47.08	20.18	Lee
Fort Pierce-Port Lucie, FL MSA	51.11	47.71	20.45	St. Lucie, Martin
Fort Walton Beach, FL MSA	37.82	35.29	15.13	Okaloosa
Gainesville, FL MSA	43.12	40.25	17.25	Alachua
Jacksonville, FL MSA	45.45	42.42	18.18	St. Johns, Nassau, Duval, Clay
Lakeland-Winter Haven, FL MSA	39.93	37.27	15.97	Polk
Melbourne-Titusville-Palm Bay, FL MSA	46.27	43.19	18.51	Brevard
Miami, FL PMSA	65.11	60.77	26.04	Dade
Naples, FL MSA	52.49	48.99	21.00	Collier
Ocala, FL MSA	39.32	36.70	15.73	Marion
Orlando, FL MSA	50.11	46.77	20.04	Lake, Osceola, Orange, Seminole
Panama City, FL MSA	37.82	35.29	15.13	Bay
Pensacola, FL MSA	39.32	36.70	15.73	Santa Rosa, Escambia
Punta Gorda, FL MSA	49.12	45.85	19.65	Charlotte
Sarasota-Bradenton, FL MSA	52.65	49.15	21.06	Manatee, Sarasota
Tallahassee, FL MSA	42.70	39.85	17.08	Gadsden, Leon
Tampa-St. Petersburg-Clearwater, FL MSA	47.98	44.78	19.19	Hernando, Pasco, Hillsborough, Pinellas
West Palm Beach-Boca Raton, FL MSA	50.84	47.45	20.34	Palm Beach

NONMETROPOLITAN COUNTIES	A	B	C
Bradford	40.91	38.18	16.36
Desoto	37.02	34.54	14.81
Citrus	37.02	34.54	14.81
Washington	37.02	34.54	14.81
Wakulla	37.02	34.54	14.81
Taylor	37.02	34.54	14.81
Sumter	37.02	34.54	14.81
Okeechobee	37.02	34.54	14.81
Madison	37.02	34.54	14.81
Levy	37.02	34.54	14.81
Jefferson	37.02	34.54	14.81
Indian River	49.85	46.53	19.94
Highlands	37.02	34.54	14.81
Hardee	37.02	34.54	14.81
Gulf	37.02	34.54	14.81
Gilchrist	37.02	34.54	14.81
Dixie	37.02	34.54	14.81

NONMETROPOLITAN COUNTIES	A	B	C
Baker	37.02	34.54	14.81
Columbia	37.02	34.54	14.81
Calhoun	37.02	34.54	14.81
Walton	37.02	34.54	14.81
Union	37.02	34.54	14.81
Suwannee	37.02	34.54	14.81
Putnam	37.02	34.54	14.81
Monroe	63.63	59.40	25.45
Liberty	37.02	34.54	14.81
Lafayette	37.02	34.54	14.81
Jackson	37.02	34.54	14.81
Holmes	37.02	34.54	14.81
Hendry	46.70	43.59	18.68
Hamilton	37.02	34.54	14.81
Glades	46.70	43.59	18.68
Franklin	37.02	34.54	14.81

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

111599

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

G E O R G I A

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Albany, GA MSA	38.14	35.59	15.26	Dougherty, Lee
Athens, GA MSA	39.10	36.50	15.64	Clarke, Oconee, Madison
Atlanta, GA MSA	52.48	48.98	20.99	Carroll, Rockdale, Spalding, Paulding, Newton, Henry Gwinnett, Fulton, Forsyth, Fayette, Douglas, Dekalb Coweta, Cobb, Clayton, Cherokee, Bartow, Barrow, Walton Pickens
Augusta-Aiken, GA-SC MSA	39.10	36.50	15.64	Columbia, Richmond, Mcduffie
Chattanooga, TN-GA MSA	41.54	38.76	16.62	Catoosa, Walker, Dade
Columbus, GA-AL MSA	38.14	35.59	15.26	Muscogee, Harris, Chattahoochee
Macon, GA MSA	38.76	36.18	15.50	Bibb, Twiggs, Peach, Jones, Houston
Savannah, GA MSA	39.83	37.18	15.93	Bryan, Effingham, Chatham

NONMETROPOLITAN COUNTIES	A	B	C	NONMETROPOLITAN COUNTIES	A	B	C
Appling	38.91	36.31	15.56	Bacon	38.91	36.31	15.56
Atkinson	38.91	36.31	15.56	Brooks	38.91	36.31	15.56
Brantley	38.91	36.31	15.56	Bleckley	38.91	36.31	15.56
Berrien	38.91	36.31	15.56	Ben Hill	38.91	36.31	15.56
Banks	38.91	36.31	15.56	Baldwin	38.91	36.31	15.56
Baker	38.91	36.31	15.56	Dawson	38.91	36.31	15.56
Crisp	38.91	36.31	15.56	Crawford	38.91	36.31	15.56
Cook	38.91	36.31	15.56	Colquitt	38.91	36.31	15.56
Coffee	38.91	36.31	15.56	Clinch	38.91	36.31	15.56
Clay	38.91	36.31	15.56	Chattooga	38.91	36.31	15.56
Charlton	38.91	36.31	15.56	Candler	38.91	36.31	15.56
Camden	38.91	36.31	15.56	Calhoun	38.91	36.31	15.56
Butts	52.72	49.21	21.09	Burke	38.91	36.31	15.56
Bulloch	38.91	36.31	15.56	Lanier	38.91	36.31	15.56
Lamar	38.91	36.31	15.56	Johnson	38.91	36.31	15.56
Jenkins	38.91	36.31	15.56	Jefferson	38.91	36.31	15.56
Jeff Davis	38.91	36.31	15.56	Jasper	38.91	36.31	15.56
Jackson	38.91	36.31	15.56	Irwin	38.91	36.31	15.56
Heard	38.91	36.31	15.56	Hart	38.91	36.31	15.56
Haralson	38.91	36.31	15.56	Hancock	38.91	36.31	15.56
Hall	43.00	40.13	17.20	Habersham	38.91	36.31	15.56
Greene	38.91	36.31	15.56	Grady	38.91	36.31	15.56
Gordon	38.91	36.31	15.56	Glynn	38.91	36.31	15.56
Glascock	38.91	36.31	15.56	Gilmer	38.91	36.31	15.56
Franklin	38.91	36.31	15.56	Floyd	38.91	36.31	15.56
Fannin	38.91	36.31	15.56	Evans	38.91	36.31	15.56
Emanuel	38.91	36.31	15.56	Elbert	38.91	36.31	15.56
Echols	38.91	36.31	15.56	Early	38.91	36.31	15.56

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

111599

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

G E O R G I A continued

NONMETROPOLITAN COUNTIES	A	B	C
Dooly	38.91	36.31	15.56
Decatur	38.91	36.31	15.56
Wilkinson	38.91	36.31	15.56
Wilcox	38.91	36.31	15.56
White	38.91	36.31	15.56
Webster	38.91	36.31	15.56
Washington	38.91	36.31	15.56
Ware	38.91	36.31	15.56
Union	38.91	36.31	15.56
Troup	38.91	36.31	15.56
Towns	38.91	36.31	15.56
Tift	38.91	36.31	15.56
Terrell	38.91	36.31	15.56
Taylor	38.91	36.31	15.56
Taliaferro	38.91	36.31	15.56
Sumter	38.91	36.31	15.56
Stephens	38.91	36.31	15.56
Screven	38.91	36.31	15.56
Randolph	38.91	36.31	15.56
Quitman	38.91	36.31	15.56
Pulaski	38.91	36.31	15.56
Pike	38.91	36.31	15.56
Oglethorpe	38.91	36.31	15.56
Morgan	38.91	36.31	15.56
Monroe	38.91	36.31	15.56
Miller	38.91	36.31	15.56
Marion	38.91	36.31	15.56
Mcintosh	38.91	36.31	15.56
Lowndes	38.91	36.31	15.56
Lincoln	38.91	36.31	15.56
Laurens	38.91	36.31	15.56

NONMETROPOLITAN COUNTIES	A	B	C
Dodge	38.91	36.31	15.56
Worth	38.91	36.31	15.56
Wilkes	38.91	36.31	15.56
Whitfield	38.91	36.31	15.56
Wheeler	38.91	36.31	15.56
Wayne	38.91	36.31	15.56
Warren	38.91	36.31	15.56
Upson	38.91	36.31	15.56
Turner	38.91	36.31	15.56
Treutlen	38.91	36.31	15.56
Toombs	38.91	36.31	15.56
Thomas	38.91	36.31	15.56
Telfair	38.91	36.31	15.56
Tattnall	38.91	36.31	15.56
Talbot	38.91	36.31	15.56
Stewart	38.91	36.31	15.56
Seminole	38.91	36.31	15.56
Schley	38.91	36.31	15.56
Rabun	38.91	36.31	15.56
Putnam	38.91	36.31	15.56
Polk	38.91	36.31	15.56
Pierce	38.91	36.31	15.56
Murray	38.91	36.31	15.56
Montgomery	38.91	36.31	15.56
Mitchell	38.91	36.31	15.56
Meriwether	38.91	36.31	15.56
Macon	38.91	36.31	15.56
Lumpkin	38.91	36.31	15.56
Long	38.91	36.31	15.56
Liberty	38.91	36.31	15.56

H A W A I I

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Honolulu, HI MSA	69.73	64.55	27.66	Honolulu

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

H A W A I I continued

NONMETROPOLITAN COUNTIES	A	B	C
Hawaii	60.97	56.90	24.39
Kauai	68.67	64.10	27.47
Maui	68.67	64.10	27.47

I D A H O

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Boise City, ID MSA	53.11	49.56	21.24	Canyon, Ada
Pocatello, ID MSA	42.74	39.89	17.10	Bannock

NONMETROPOLITAN COUNTIES	A	B	C
Adams	41.40	38.65	16.56
Bear Lake	42.85	39.99	17.14
Boise	41.40	38.65	16.56
Bingham	42.85	39.99	17.14
Clark	46.33	43.24	18.53
Caribou	42.85	39.99	17.14
Butte	46.33	43.24	18.53
Bonneville	46.33	43.24	18.53
Madison	46.33	43.24	18.53
Lewis	42.85	39.99	17.14
Latah	42.85	39.99	17.14
Jerome	43.92	40.99	17.57
Idaho	42.85	39.99	17.14
Gem	41.40	38.65	16.56
Franklin	42.85	39.99	17.14
Custer	46.33	43.24	18.53
Valley	41.40	38.65	16.56
Teton	46.33	43.24	18.53
Power	42.85	39.99	17.14
Owyhee	41.40	38.65	16.56
Nez Perce	42.85	39.99	17.14
Benewah	42.85	39.99	17.14
Bonner	42.85	39.99	17.14
Blaine	45.46	42.43	18.18
Clearwater	42.85	39.99	17.14
Cassia	43.92	40.99	17.57
Camas	43.92	40.99	17.57
Boundary	42.85	39.99	17.14
Minidoka	43.92	40.99	17.57
Lincoln	43.92	40.99	17.57
Lemhi	46.33	43.24	18.53
Kootenai	44.34	41.38	17.74
Jefferson	46.33	43.24	18.53
Gooding	43.92	40.99	17.57
Fremont	46.33	43.24	18.53
Elmore	41.40	38.65	16.56
Washington	41.40	38.65	16.56
Twin Falls	43.92	40.99	17.57
Shoshone	42.85	39.99	17.14
Payette	41.40	38.65	16.56
Oneida	42.85	39.99	17.14

I L L I N O I S

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Bloomington-Normal, IL MSA	44.32	40.56	17.38	Mclean
Champaign-Urbana, IL MSA	44.47	40.70	17.44	Champaign
Chicago, IL	63.10	57.74	24.75	Lake, Kane, Dupage, Cook, Will, Mchenry
Davenport-Moline-Rock Island, IA-IL MSA	46.65	43.54	18.66	Rock Island, Henry

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

I L L I N O I S continued

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Decatur, IL MSA	42.97	39.32	16.85	Macon
De Kalb County, IL	50.01	45.76	19.61	Dekalb
Grundy County, IL	64.37	58.89	25.24	Grundy
Kankakee, IL PMSA	43.05	39.40	16.88	Kankakee
Kendall County, Il	63.64	58.23	24.96	Kendall
Peoria-Pekin, IL MSA	49.82	45.59	19.54	Peoria, Woodford, Tazewell
Rockford, IL MSA	45.31	41.47	17.77	Winnebago, Ogle, Boone
St. Louis, MO-IL MSA	42.33	39.50	16.93	Clinton, St. Clair, Monroe, Madison, Jersey
Springfield, IL MSA	45.41	41.54	17.81	Sangamon, Menard

NONMETROPOLITAN COUNTIES	A	B	C	NONMETROPOLITAN COUNTIES	A	B	C
Alexander	37.05	34.57	14.82	Adams	37.05	34.57	14.82
Clark	37.05	34.57	14.82	Christian	37.05	34.57	14.82
Cass	37.05	34.57	14.82	Carroll	37.05	34.57	14.82
Calhoun	37.05	34.57	14.82	Bureau	39.30	36.68	15.72
Brown	37.05	34.57	14.82	Bond	37.05	34.57	14.82
Hamilton	37.05	34.57	14.82	Greene	37.05	34.57	14.82
Gallatin	37.05	34.57	14.82	Fulton	39.30	36.68	15.72
Franklin	37.48	34.98	14.99	Ford	37.05	34.57	14.82
Fayette	37.05	34.57	14.82	Effingham	37.05	34.57	14.82
Edwards	37.05	34.57	14.82	Edgar	37.05	34.57	14.82
Douglas	37.05	34.57	14.82	De Witt	37.05	34.57	14.82
Cumberland	37.05	34.57	14.82	Crawford	37.05	34.57	14.82
Coles	37.05	34.57	14.82	Clay	37.05	34.57	14.82
Randolph	37.05	34.57	14.82	Putnam	39.30	36.68	15.72
Pulaski	37.05	34.57	14.82	Pope	37.05	34.57	14.82
Pike	37.05	34.57	14.82	Piatt	37.05	34.57	14.82
Perry	37.05	34.57	14.82	Moultrie	37.05	34.57	14.82
Morgan	37.05	34.57	14.82	Montgomery	37.05	34.57	14.82
Mercer	37.05	34.57	14.82	Massac	37.05	34.57	14.82
Mason	37.05	34.57	14.82	Marshall	39.30	36.68	15.72
Marion	37.05	34.57	14.82	Macoupin	37.05	34.57	14.82
Mcdonough	37.05	34.57	14.82	Logan	37.05	34.57	14.82
Livingston	37.05	34.57	14.82	Lee	44.31	41.35	17.72
Lawrence	37.05	34.57	14.82	La Salle	44.31	41.35	17.72
Knox	37.82	35.30	15.13	Johnson	37.05	34.57	14.82
Jo Daviess	37.05	34.57	14.82	Jefferson	37.05	34.57	14.82
Jasper	37.05	34.57	14.82	Jackson	37.48	34.98	14.99
Iroquois	37.05	34.57	14.82	Henderson	37.05	34.57	14.82
Hardin	37.05	34.57	14.82	Hancock	37.05	34.57	14.82

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

111599

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

I L L I N O I S continued

NONMETROPOLITAN COUNTIES	A	B	C
Williamson	37.48	34.98	14.99
White	37.05	34.57	14.82
Washington	37.05	34.57	14.82
Wabash	37.05	34.57	14.82
Union	37.05	34.57	14.82
Stark	39.30	36.68	15.72
Scott	37.05	34.57	14.82
Saline	37.05	34.57	14.82
Whiteside	44.31	41.35	17.72
Wayne	37.05	34.57	14.82
Warren	37.05	34.57	14.82
Vermilion	37.05	34.57	14.82
Stephenson	37.05	34.57	14.82
Shelby	37.05	34.57	14.82
Schuyler	37.05	34.57	14.82
Richland	37.05	34.57	14.82

I N D I A N A

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Bloomington, IN MSA	39.38	36.76	15.75	Monroe
Cincinnati, OH-KY-IN	43.57	40.66	17.43	Dearborn
Elkhart-Goshen, IN MSA	38.40	35.84	15.36	Elkhart
Evansville-Henderson, IN-KY MSA	38.13	35.59	15.25	Posey, Warrick, Vanderburgh
Fort Wayne, IN MSA	39.74	37.09	15.89	Allen, Adams, Whitley, Wells, Huntington, De Kalb
Gary, IN PMSA	48.51	45.28	19.40	Porter, Lake
Indianapolis, IN MSA	43.93	41.00	17.57	Hamilton, Boone, Shelby, Morgan, Marion, Madison, Johnson Hendricks, Hancock
Kokomo, IN MSA	38.65	36.08	15.46	Howard, Tipton
Lafayette, IN MSA	42.43	39.60	16.97	Clinton, Tippecanoe
Louisville, KY-IN MSA	34.87	31.91	13.68	Clark, Scott, Harrison, Floyd
Muncie, IN MSA	37.02	34.54	14.81	Delaware
Ohio County, IN	37.02	34.54	14.81	Ohio
South Bend, IN MSA	39.11	36.50	15.65	St. Joseph
Terre Haute, IN MSA	37.02	34.54	14.81	Vermillion, Clay, Vigo

NONMETROPOLITAN COUNTIES	A	B	C
Bartholomew	39.78	37.13	15.91
Benton	36.73	34.27	14.69
Dubois	36.73	34.27	14.69
Daviess	36.73	34.27	14.69
Cass	36.73	34.27	14.69
Brown	39.78	37.13	15.91
Wayne	36.73	34.27	14.69
Warren	36.73	34.27	14.69
Union	36.73	34.27	14.69
Sullivan	36.73	34.27	14.69
Starke	36.73	34.27	14.69
Blackford	36.73	34.27	14.69
Fayette	36.73	34.27	14.69
Decatur	38.44	35.88	15.38
Crawford	36.73	34.27	14.69
Carroll	36.73	34.27	14.69
White	36.73	34.27	14.69
Washington	37.75	35.24	15.10
Wabash	36.73	34.27	14.69
Switzerland	36.73	34.27	14.69
Steuben	36.73	34.27	14.69
Spencer	36.73	34.27	14.69

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

111599

I N D I A N A continued

NONMETROPOLITAN COUNTIES	A	B	C
Rush	36.73	34.27	14.69
Randolph	36.73	34.27	14.69
Pulaski	36.73	34.27	14.69
Perry	36.73	34.27	14.69
Owen	37.24	34.76	14.90
Noble	36.73	34.27	14.69
Montgomery	36.73	34.27	14.69
Martin	36.73	34.27	14.69
Lawrence	36.73	34.27	14.69
Lagrange	36.73	34.27	14.69
Knox	36.73	34.27	14.69
Jefferson	36.73	34.27	14.69
Jasper	36.73	34.27	14.69
Henry	36.73	34.27	14.69
Grant	36.73	34.27	14.69
Fulton	36.73	34.27	14.69
Fountain	36.73	34.27	14.69

NONMETROPOLITAN COUNTIES	A	B	C
Ripley	36.73	34.27	14.69
Putnam	36.81	34.36	14.72
Pike	36.73	34.27	14.69
Parke	36.73	34.27	14.69
Orange	36.73	34.27	14.69
Newton	36.73	34.27	14.69
Miami	36.73	34.27	14.69
Marshall	36.73	34.27	14.69
La Porte	38.01	35.48	15.21
Kosciusko	36.73	34.27	14.69
Jennings	38.44	35.88	15.38
Jay	36.73	34.27	14.69
Jackson	38.44	35.88	15.38
Greene	36.73	34.27	14.69
Gibson	36.73	34.27	14.69
Franklin	36.73	34.27	14.69

I O W A

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Cedar Rapids, IA MSA	45.06	42.06	18.02	Linn
Davenport-Moline-Rock Island, IA-IL MSA	46.65	43.54	18.66	Scott
Des Moines, IA MSA	46.55	43.44	18.62	Polk, Dallas, Warren
Dubuque, IA MSA	41.70	38.92	16.68	Dubuque
Iowa City, IA MSA	47.44	44.28	18.98	Johnson
Omaha, NE-IA MSA	42.21	39.40	16.89	Pottawattamie
Sioux City, IA-NE MSA	40.73	38.01	16.29	Woodbury
Waterloo-Cedar Falls, IA MSA	45.23	42.21	18.09	Black Hawk

NONMETROPOLITAN COUNTIES	A	B	C
Adams	37.53	35.02	15.01
Buena Vista	37.53	35.02	15.01
Bremer	44.89	41.89	17.95
Benton	37.53	35.02	15.01
Appanoose	37.53	35.02	15.01
Sac	37.53	35.02	15.01
Poweshiek	37.53	35.02	15.01
Plymouth	37.53	35.02	15.01
Page	37.53	35.02	15.01

NONMETROPOLITAN COUNTIES	A	B	C
Adair	37.53	35.02	15.01
Buchanan	37.53	35.02	15.01
Boone	40.24	37.56	16.10
Audubon	37.53	35.02	15.01
Allamakee	37.53	35.02	15.01
Ringgold	37.53	35.02	15.01
Pocahontas	37.53	35.02	15.01
Palo Alto	37.53	35.02	15.01
Osceola	37.53	35.02	15.01

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

111599

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

I O W A continued

NONMETROPOLITAN COUNTIES	A	B	C
O'Brien	37.53	35.02	15.01
Montgomery	37.53	35.02	15.01
Monona	37.53	35.02	15.01
Mills	37.53	35.02	15.01
Marion	37.53	35.02	15.01
Madison	37.53	35.02	15.01
Lucas	37.53	35.02	15.01
Lee	37.53	35.02	15.01
Keokuk	37.53	35.02	15.01
Jefferson	37.53	35.02	15.01
Jackson	39.54	36.90	15.82
Ida	37.53	35.02	15.01
Howard	37.53	35.02	15.01
Harrison	37.53	35.02	15.01
Hancock	37.53	35.02	15.01
Guthrie	37.53	35.02	15.01
Greene	37.53	35.02	15.01
Franklin	37.53	35.02	15.01
Fayette	37.53	35.02	15.01
Dickinson	37.53	35.02	15.01
Delaware	39.54	36.90	15.82
Davis	37.53	35.02	15.01
Clinton	39.54	36.90	15.82
Clay	37.53	35.02	15.01
Chickasaw	37.53	35.02	15.01
Cerro Gordo	37.53	35.02	15.01
Cass	37.53	35.02	15.01
Calhoun	37.53	35.02	15.01
Wright	37.53	35.02	15.01
Winneshiek	37.53	35.02	15.01
Webster	37.53	35.02	15.01
Washington	37.53	35.02	15.01
Van Buren	37.53	35.02	15.01
Taylor	37.53	35.02	15.01
Story	40.77	38.05	16.31
Shelby	37.53	35.02	15.01

NONMETROPOLITAN COUNTIES	A	B	C
Muscatine	37.53	35.02	15.01
Monroe	37.53	35.02	15.01
Mitchell	37.53	35.02	15.01
Marshall	37.53	35.02	15.01
Mahaska	37.53	35.02	15.01
Lyon	37.53	35.02	15.01
Louisa	37.53	35.02	15.01
Kossuth	37.53	35.02	15.01
Jones	37.53	35.02	15.01
Jasper	37.53	35.02	15.01
Iowa	37.53	35.02	15.01
Humboldt	37.53	35.02	15.01
Henry	37.53	35.02	15.01
Hardin	37.53	35.02	15.01
Hamilton	37.53	35.02	15.01
Grundy	37.53	35.02	15.01
Fremont	37.53	35.02	15.01
Floyd	37.53	35.02	15.01
Emmet	37.53	35.02	15.01
Des Moines	37.53	35.02	15.01
Decatur	37.53	35.02	15.01
Crawford	37.53	35.02	15.01
Clayton	37.53	35.02	15.01
Clarke	37.53	35.02	15.01
Cherokee	37.53	35.02	15.01
Cedar	39.54	36.90	15.82
Carroll	37.53	35.02	15.01
Butler	37.53	35.02	15.01
Worth	37.53	35.02	15.01
Winnebago	37.53	35.02	15.01
Wayne	37.53	35.02	15.01
Wapello	39.45	36.82	15.78
Union	37.53	35.02	15.01
Tama	37.53	35.02	15.01
Sioux	37.53	35.02	15.01

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

K A N S A S

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Kansas City, MO-KS MSA	41.15	38.40	16.46	Johnson, Wyandotte, Miami, Leavenworth
Lawrence, KS MSA	44.08	41.14	17.63	Douglas
Topeka, KS MSA	39.89	37.23	15.96	Shawnee
Wichita, KS MSA	42.97	40.10	17.19	Butler, Sedgwick, Harvey

NONMETROPOLITAN COUNTIES	A	B	C	NONMETROPOLITAN COUNTIES	A	B	C
Chase	36.25	33.82	14.50	Brown	36.25	33.82	14.50
Bourbon	36.25	33.82	14.50	Barton	36.25	33.82	14.50
Barber	36.25	33.82	14.50	Atchison	36.25	33.82	14.50
Anderson	36.25	33.82	14.50	Allen	36.25	33.82	14.50
Jackson	36.25	33.82	14.50	Hodgeman	36.25	33.82	14.50
Haskell	36.25	33.82	14.50	Harper	36.25	33.82	14.50
Hamilton	36.25	33.82	14.50	Greenwood	36.25	33.82	14.50
Greeley	36.25	33.82	14.50	Gray	36.25	33.82	14.50
Grant	36.25	33.82	14.50	Graham	36.25	33.82	14.50
Gove	36.25	33.82	14.50	Geary	36.25	33.82	14.50
Franklin	36.25	33.82	14.50	Ford	36.25	33.82	14.50
Finney	36.25	33.82	14.50	Ellsworth	36.25	33.82	14.50
Ellis	36.25	33.82	14.50	Elk	36.25	33.82	14.50
Edwards	36.25	33.82	14.50	Doniphan	36.25	33.82	14.50
Dickinson	36.25	33.82	14.50	Decatur	36.25	33.82	14.50
Crawford	36.25	33.82	14.50	Cowley	36.25	33.82	14.50
Comanche	36.25	33.82	14.50	Coffey	36.25	33.82	14.50
Cloud	36.25	33.82	14.50	Clay	36.25	33.82	14.50
Clark	36.25	33.82	14.50	Cheyenne	36.25	33.82	14.50
Cherokee	36.25	33.82	14.50	Chautauqua	36.25	33.82	14.50
Woodson	36.25	33.82	14.50	Wilson	36.25	33.82	14.50
Wichita	36.25	33.82	14.50	Washington	36.25	33.82	14.50
Wallace	36.25	33.82	14.50	Wabaunsee	36.25	33.82	14.50
Trego	36.25	33.82	14.50	Thomas	36.25	33.82	14.50
Sumner	36.25	33.82	14.50	Stevens	36.25	33.82	14.50
Stanton	36.25	33.82	14.50	Stafford	36.25	33.82	14.50
Smith	36.25	33.82	14.50	Sherman	36.25	33.82	14.50
Sheridan	36.25	33.82	14.50	Seward	36.25	33.82	14.50
Scott	36.25	33.82	14.50	Saline	36.25	33.82	14.50
Russell	36.25	33.82	14.50	Rush	36.25	33.82	14.50
Rooks	36.25	33.82	14.50	Riley	36.25	33.82	14.50
Rice	36.25	33.82	14.50	Republic	36.25	33.82	14.50
Reno	36.25	33.82	14.50	Rawlins	36.25	33.82	14.50
Pratt	36.25	33.82	14.50	Pottawatomie	36.25	33.82	14.50

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

K A N S A S continued

NONMETROPOLITAN COUNTIES	A	B	C
Phillips	36.25	33.82	14.50
Ottawa	36.25	33.82	14.50
Osage	36.25	33.82	14.50
Ness	36.25	33.82	14.50
Nemaha	36.25	33.82	14.50
Morris	36.25	33.82	14.50
Mitchell	36.25	33.82	14.50
Marshall	36.25	33.82	14.50
Mcpherson	36.25	33.82	14.50
Logan	36.25	33.82	14.50
Lincoln	36.25	33.82	14.50
Labette	36.25	33.82	14.50
Kingman	36.25	33.82	14.50
Jewell	36.25	33.82	14.50
Pawnee	36.25	33.82	14.50
Osborne	36.25	33.82	14.50
Norton	36.25	33.82	14.50
Neosho	36.25	33.82	14.50
Morton	36.25	33.82	14.50
Montgomery	36.25	33.82	14.50
Meade	36.25	33.82	14.50
Marion	36.25	33.82	14.50
Lyon	36.25	33.82	14.50
Linn	36.25	33.82	14.50
Lane	36.25	33.82	14.50
Kiowa	36.25	33.82	14.50
Kearny	36.25	33.82	14.50
Jefferson	36.25	33.82	14.50

K E N T U C K Y

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Cincinnati, OH-KY-IN	43.57	40.66	17.43	Kenton, Campbell, Boone
Clarksville-Hopkinsville, TN-KY MSA	42.26	39.45	16.91	Christian
Evansville-Henderson, IN-KY MSA	38.13	35.59	15.25	Henderson
Gallatin County, KY	34.87	31.91	13.68	Gallatin
Grant County, KY	34.87	31.91	13.68	Grant
Huntington-Ashland, WV-KY-OH MSA	37.57	35.06	15.03	Boyd, Greenup, Carter
Lexington, KY MSA	38.62	35.33	15.15	Clark, Bourbon, Scott, Madison, Jessamine, Fayette Woodford
Louisville, KY-IN MSA	34.87	31.91	13.68	Bullitt, Oldham, Jefferson
Owensboro, KY MSA	34.87	31.91	13.68	Daviess
Pendleton County, KY	34.87	31.91	13.68	Pendleton

NONMETROPOLITAN COUNTIES	A	B	C
Allen	35.12	32.78	14.05
Clay	35.12	32.78	14.05
Carroll	35.12	32.78	14.05
Calloway	35.12	32.78	14.05
Butler	35.12	32.78	14.05
Breathitt	35.12	32.78	14.05
Boyle	35.12	32.78	14.05
Bath	35.12	32.78	14.05
Ballard	35.12	32.78	14.05
Letcher	35.12	32.78	14.05
Adair	35.12	32.78	14.05
Casey	35.12	32.78	14.05
Carlisle	35.12	32.78	14.05
Caldwell	35.12	32.78	14.05
Breckinridge	35.12	32.78	14.05
Bracken	35.12	32.78	14.05
Bell	35.12	32.78	14.05
Barren	35.12	32.78	14.05
Anderson	35.77	33.38	14.31
Leslie	35.12	32.78	14.05

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

111599

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

K E N T U C K Y continued

NONMETROPOLITAN COUNTIES	A	B	C
Lee	35.12	32.78	14.05
Laurel	35.12	32.78	14.05
Knox	35.12	32.78	14.05
Johnson	35.12	32.78	14.05
Hopkins	35.12	32.78	14.05
Henry	35.12	32.78	14.05
Harrison	35.12	32.78	14.05
Hardin	35.12	32.78	14.05
Green	35.12	32.78	14.05
Graves	35.12	32.78	14.05
Fulton	35.12	32.78	14.05
Floyd	35.12	32.78	14.05
Estill	35.12	32.78	14.05
Edmonson	35.12	32.78	14.05
Crittenden	35.12	32.78	14.05
Wolfe	35.12	32.78	14.05
Webster	35.12	32.78	14.05
Washington	35.12	32.78	14.05
Union	35.12	32.78	14.05
Trigg	35.12	32.78	14.05
Taylor	35.12	32.78	14.05
Simpson	35.12	32.78	14.05
Russell	35.12	32.78	14.05
Rockcastle	35.12	32.78	14.05
Pulaski	35.12	32.78	14.05
Pike	35.12	32.78	14.05
Owsley	35.12	32.78	14.05
Ohio	35.12	32.78	14.05
Nelson	35.12	32.78	14.05
Morgan	35.12	32.78	14.05
Monroe	35.12	32.78	14.05
Mercer	35.77	33.38	14.31
Meade	35.12	32.78	14.05
Martin	35.12	32.78	14.05
Marion	35.12	32.78	14.05
Mclean	35.12	32.78	14.05
Mccracken	35.12	32.78	14.05
Logan	35.12	32.78	14.05
Lincoln	35.12	32.78	14.05

NONMETROPOLITAN COUNTIES	A	B	C
Lawrence	35.12	32.78	14.05
Larue	35.12	32.78	14.05
Knott	35.12	32.78	14.05
Jackson	35.12	32.78	14.05
Hickman	35.12	32.78	14.05
Hart	35.12	32.78	14.05
Harlan	35.12	32.78	14.05
Hancock	35.12	32.78	14.05
Grayson	35.12	32.78	14.05
Garrard	35.12	32.78	14.05
Franklin	35.77	33.38	14.31
Fleming	35.12	32.78	14.05
Elliott	35.12	32.78	14.05
Cumberland	35.12	32.78	14.05
Clinton	35.12	32.78	14.05
Whitley	35.12	32.78	14.05
Wayne	35.12	32.78	14.05
Warren	35.12	32.78	14.05
Trimble	35.12	32.78	14.05
Todd	35.12	32.78	14.05
Spencer	35.12	32.78	14.05
Shelby	35.12	32.78	14.05
Rowan	35.12	32.78	14.05
Robertson	35.12	32.78	14.05
Powell	35.12	32.78	14.05
Perry	35.12	32.78	14.05
Owen	35.12	32.78	14.05
Nicholas	35.12	32.78	14.05
Muhlenberg	35.12	32.78	14.05
Montgomery	35.12	32.78	14.05
Metcalfe	35.12	32.78	14.05
Menifee	35.12	32.78	14.05
Mason	35.12	32.78	14.05
Marshall	35.12	32.78	14.05
Magoffin	35.12	32.78	14.05
Mccreary	35.12	32.78	14.05
Lyon	35.12	32.78	14.05
Livingston	35.12	32.78	14.05
Lewis	35.12	32.78	14.05

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

L O U I S I A N A

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Alexandria, LA MSA	36.74	33.61	14.41	Rapides
Baton Rouge, LA MSA	43.26	39.58	16.97	East Baton Rouge, Ascension, West Baton Rouge, Livingston
Houma, LA MSA	38.36	35.11	15.04	Terrebonne, Lafourche
Lafayette, LA MSA	36.74	33.61	14.41	Acadia, St. Martin, Lafayette, St. Landry
Lake Charles, LA MSA	36.74	33.61	14.41	Calcasieu
Monroe, LA MSA	36.74	33.61	14.41	Ouachita
New Orleans, LA	40.07	36.66	15.71	St. Bernard, Plaquemines, Orleans, Jefferson, St. Tammany St. John The BaptiST, St. Charles
St. James Parish, LA	36.74	33.61	14.41	St. James
Shreveport-Bossier City, LA MSA	39.22	35.89	15.38	Bossier, Webster, Caddo

NONMETROPOLITAN COUNTIES	A	B	C	NONMETROPOLITAN COUNTIES	A	B	C
Catahoula	36.41	33.97	14.56	Cameron	36.41	33.97	14.56
Caldwell	36.41	33.97	14.56	Bienville	36.41	33.97	14.56
Beauregard	36.41	33.97	14.56	Avoyelles	36.41	33.97	14.56
Assumption	36.41	33.97	14.56	Allen	36.41	33.97	14.56
Morehouse	36.41	33.97	14.56	Madison	36.41	33.97	14.56
Lincoln	36.41	33.97	14.56	La Salle	36.41	33.97	14.56
Jefferson Davis	36.41	33.97	14.56	Jackson	36.41	33.97	14.56
Iberville	36.41	33.97	14.56	Iberia	36.41	33.97	14.56
Grant	36.41	33.97	14.56	Franklin	36.41	33.97	14.56
Evangeline	36.41	33.97	14.56	East Feliciana	36.41	33.97	14.56
East Carroll	36.41	33.97	14.56	De Soto	36.41	33.97	14.56
Concordia	36.41	33.97	14.56	Claiborne	36.41	33.97	14.56
Winn	36.41	33.97	14.56	West Feliciana	36.41	33.97	14.56
West Carroll	36.41	33.97	14.56	Washington	36.41	33.97	14.56
Vernon	36.41	33.97	14.56	Vermilion	36.41	33.97	14.56
Union	36.41	33.97	14.56	Tensas	36.41	33.97	14.56
Tangipahoa	36.41	33.97	14.56	St. Mary	36.41	33.97	14.56
St. Helena	36.41	33.97	14.56	Sabine	36.41	33.97	14.56
Richland	36.41	33.97	14.56	Red River	36.41	33.97	14.56
Pointe Coupee	36.41	33.97	14.56	Natchitoches	36.41	33.97	14.56

M A I N E

METROPOLITAN FMR AREAS	A	B	C	Components of FMR AREA within STATE
Bangor, ME MSA	44.44	41.48	17.78	Waldo county towns of Winterport town Penobscot county towns of Bangor city, Brewer city Eddington town, Glenburn town, Hampden town, Hermon town Holden town, Kenduskeag town, Milford town Old Town city, Orono town, Orrington town

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

111599

M A I N E continued

METROPOLITAN FMR AREAS	A	B	C	Components of FMR AREA within STATE
				Penobscot Indian I, Veazie town
Lewiston-Auburn, ME MSA	43.78	40.86	17.51	Androscoggin county towns of Auburn city, Greene town Lewiston city, Lisbon town, Mechanic Falls tow Poland town, Sabattus town, Turner town, Wales town
Portland, ME MSA	61.18	57.10	24.47	Cumberland county towns of Cape Elizabeth tow, Casco town Cumberland town, Falmouth town, Freeport town Gorham town, Gray town, North Yarmouth tow Portland city, Raymond town, Scarborough town South Portland cit, Standish town, Westbrook city Windham town, Yarmouth town York county towns of Buxton town, Hollis town Limington town, Old Orchard Beach
Portsmouth-Rochester, NH-ME PMSA	55.08	50.89	21.81	York county towns of Berwick town, Eliot town Kittery town, South Berwick town, York town

NONMETROPOLITAN COUNTIES	A	B	C	Towns within non metropolitan counties
Aroostook	39.82	37.17	15.93	
Androscoggin	39.44	36.81	15.77	Durham town, Leeds town, Livermore town Livermore Falls to, Minot town
Penobscot	40.39	37.70	16.16	Alton town, Argyle unorg., Bradford town, Bradley town Burlington town, Carmel town, Carroll plantation Charleston town, Chester town, Clifton town Corinna town, Corinth town, Dexter town, Dixmont town Drew plantation, East Central Penob, East Millinocket t Edinburg town, Enfield town, Etna town, Exeter town Garland town, Greenbush town, Greenfield town Howland town, Hudson town, Kingman unorg., Lagrange town Lakeville town, Lee town, Levant town, Lincoln town Lowell town, Mattawamkeag town, Maxfield town Medway town, Millinocket town, Mount Chase town Newburgh town, Newport town, North Penobscot un Passadumkeag town, Patten town, Plymouth town Prentiss plantatio, Seboeis plantation, Springfield town Stacyville town, Stetson town, Twombly unorg. Webster plantation, Whitney unorg., Winn town Woodville town
Oxford	39.09	36.48	15.64	
Lincoln	41.13	38.39	16.45	
Knox	41.81	39.02	16.72	
Kennebec	41.86	39.07	16.75	
Hancock	40.88	38.16	16.35	
Franklin	39.09	36.48	15.64	
Cumberland	45.61	42.57	18.24	Baldwin town, Bridgton town, Brunswick town Harpswell town, Harrison town, Naples town New Gloucester tow, Pownal town, Sebago town

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

111599

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

M A I N E continued

NONMETROPOLITAN COUNTIES	A	B	C	Towns within non metropolitan counties
York	52.47	48.97	20.99	Acton town, Alfred town, Arundel town, Biddeford city Cornish town, Dayton town, Kennebunk town Kennebunkport town, Lebanon town, Limerick town Lyman town, Newfield town, North Berwick town Ogunquit town, Parsonsfield town, Saco city Sanford town, Shapleigh town, Waterboro town, Wells town
Washington	40.39	37.70	16.16	
Waldo	40.39	37.70	16.16	Belfast city, Belmont town, Brooks town, Burnham town Frankfort town, Freedom town, Islesboro town Jackson town, Knox town, Liberty town, Lincolnville town Monroe town, Montville town, Morrill town Northport town, Palermo town, Prospect town Searsmont town, Searsport town, Stockton Springs t Swanville town, Thorndike town, Troy town, Unity town Waldo town
Somerset	39.74	37.09	15.89	
Sagadahoc	47.81	44.61	19.12	
Piscataquis	35.09	32.75	14.04	

M A R Y L A N D

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Baltimore, MD	49.64	45.41	19.47	Baltimore, Anne Arundel, Baltimore City, Queen Anne'S Howard, Harford, Carroll
Columbia, MD	65.60	60.02	25.73	Columbia
Cumberland, MD-WV MSA	35.23	32.24	13.82	Allegany
Hagerstown, MD PMSA	38.94	35.63	15.27	Washington
Washington, DC-MD-VA	68.91	64.32	27.57	Prince George'S, Montgomery, Frederick, Charles, Calvert
Wilmington-Newark, DE-MD PMSA	55.15	51.05	21.88	Cecil

NONMETROPOLITAN COUNTIES	A	B	C
Dorchester	38.54	35.97	15.42
Worcester	39.73	37.08	15.89
Talbot	44.36	41.40	17.74
St. Mary'S	54.44	50.81	21.77
Garrett	36.18	33.76	14.47
Caroline	36.93	34.47	14.77
Wicomico	45.81	42.76	18.32
Somerset	38.54	35.97	15.42
Kent	40.59	37.89	16.24

M A S S A C H U S E T T S

METROPOLITAN FMR AREAS	A	B	C	Components of FMR AREA within STATE
Barnstable-Yarmouth, MA MSA	68.67	64.10	27.47	Barnstable county towns of Barnstable town, Brewster town Chatham town, Dennis town, Eastham town, Harwich town Mashpee town, Orleans town, Sandwich town, Yarmouth town

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

111599

M A S S A C H U S E T T S continued

METROPOLITAN FMR AREAS	A	B	C	Components of FMR AREA within STATE
Boston, MA-NH PMSA	68.50	63.93	27.40	Worcester county towns of Berlin town, Blackstone town Bolton town, Harvard town, Hopedale town, Lancaster town Mendon town, Milford town, Millville town Southborough town, Upton town Suffolk county towns of Boston city, Chelsea city Revere city, Winthrop town Plymouth county towns of Carver town, Duxbury town Hanover town, Hingham town, Hull town, Kingston town Marshfield town, Norwell town, Pembroke town Plymouth town, Rockland town, Scituate town Wareham town Norfolk county towns of Bellingham town, Braintree town Brookline town, Canton town, Cohasset town, Dedham town Dover town, Foxborough town, Franklin town Holbrook town, Medfield town, Medway town, Millis town Milton town, Needham town, Norfolk town, Norwood town Plainville town, Quincy city, Randolph town, Sharon town Stoughton town, Walpole town, Wellesley town Westwood town, Weymouth town, Wrentham town Middlesex county towns of Acton town, Arlington town Ashland town, Ayer town, Bedford town, Belmont town Boxborough town, Burlington town, Cambridge city Carlisle town, Concord town, Everett city Framingham town, Holliston town, Hopkinton town Hudson town, Lexington town, Lincoln town Littleton town, Malden city, Marlborough city Maynard town, Medford city, Melrose city, Natick town Newton city, North Reading town, Reading town Sherborn town, Shirley town, Somerville city Stoneham town, Stow town, Sudbury town, Townsend town Wakefield town, Waltham city, Watertown town Wayland town, Weston town, Wilmington town Winchester town, Woburn city Essex county towns of Amesbury town, Beverly city Danvers town, Essex town, Gloucester city, Hamilton town Ipswich town, Lynn city, Lynnfield town, Manchester town Marblehead town, Middleton town, Nahant town Newbury town, Newburyport city, Peabody city Rockport town, Rowley town, Salem city, Salisbury town Saugus town, Swampscott town, Topsfield town Wenham town Bristol county towns of Berkley town, Dighton town Mansfield town, Norton town, Taunton city
Brockton, MA PMSA	56.99	53.19	22.80	Bristol county towns of Easton town, Raynham town Plymouth county towns of Abington town, Bridgewater town Brockton city, East Bridgewater t, Halifax town Hanson town, Lakeville town, Middleborough town

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

111599

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

M A S S A C H U S E T T S continued

METROPOLITAN FMR AREAS	A	B	C	Components of FMR AREA within STATE
				Plympton town, West Bridgewater t, Whitman town
				Norfolk county towns of Avon town
Fitchburg-Leominster, MA MSA	57.41	53.59	22.97	Worcester county towns of Ashburnham town, Fitchburg city
				Gardner city, Leominster city, Lunenburg town
				Templeton town, Westminster town, Winchendon town
				Middlesex county towns of Ashby town
Lawrence, MA-NH PMSA	55.04	51.37	22.02	Essex county towns of Andover town, Boxford town
				Georgetown town, Groveland town, Haverhill city
				Lawrence city, Merrimac town, Methuen town
				North Andover town, West Newbury town
Lowell, MA-NH PMSA	57.50	53.66	23.00	Middlesex county towns of Billerica town, Chelmsford town
				Dracut town, Dunstable town, Groton town, Lowell city
				Pepperell town, Tewksbury town, Tyngsborough town
				Westford town
New Bedford, MA PMSA	49.70	46.39	19.88	Plymouth county towns of Marion town, Mattapoisett town
				Rochester town
				Bristol county towns of Acushnet town, Dartmouth town
				Fairhaven town, Freetown town, New Bedford city
Pittsfield, MA MSA	52.58	49.08	21.03	Berkshire county towns of Adams town, Cheshire town
				Dalton town, Hinsdale town, Lanesborough town, Lee town
				Lenox town, Pittsfield city, Richmond town
				Stockbridge town
Providence-Fall River-Warwick, RI-MA MSA	58.05	53.80	23.06	Bristol county towns of Attleboro city, Fall River city
				North Attleborough, Rehoboth town, Seekonk town
				Somerset town, Swansea town, Westport town
Springfield, MA MSA	51.49	48.05	20.59	Hampden county towns of Agawam town, Chicopee city
				East Longmeadow to, Hampden town, Holyoke city
				Longmeadow town, Ludlow town, Monson town
				Montgomery town, Palmer town, Russell town
				Southwick town, Springfield city, Westfield city
				West Springfield t, Wilbraham town
				Franklin county towns of Sunderland town
				Hampshire county towns of Amherst town, Belchertown town
				Easthampton town, Granby town, Hadley town
				Hatfield town, Huntington town, Northampton city
				Southampton town, South Hadley town, Ware town
				Williamsburg town
Worcester, MA-CT PMSA	57.31	53.49	22.92	Hampden county towns of Holland town
				Worcester county towns of Auburn town, Barre town
				Boylston town, Brookfield town, Charlton town
				Clinton town, Douglas town, Dudley town
				East Brookfield to, Grafton town, Holden town
				Leicester town, Millbury town, Northborough town
				Northbridge town, North Brookfield t, Oakham town
				Oxford town, Paxton town, Princeton town, Rutland town
				Shrewsbury town, Southbridge town, Spencer town
				Sterling town, Sturbridge town, Sutton town

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

M A S S A C H U S E T T S continued

METROPOLITAN FMR AREAS	A	B	C	Components of FMR AREA within STATE
				Uxbridge town, Webster town, Westborough town West Boylston town, West Brookfield to, Worcester city
NONMETROPOLITAN COUNTIES	**A**	**B**	**C**	**Towns within non metropolitan counties**
Barnstable	70.07	65.40	28.03	Bourne town, Falmouth town, Provincetown town Truro town, Wellfleet town
Worcester	52.44	48.95	20.98	Athol town, Hardwick town, Hubbardston town New Braintree town, Petersham town, Phillipston town Royalston town, Warren town
Nantucket	70.07	65.40	28.03	
Hampshire	64.20	59.92	25.68	Chesterfield town, Cummington town, Goshen town Middlefield town, Pelham town, Plainfield town Westhampton town, Worthington town
Hampden	51.16	47.74	20.46	Blandford town, Brimfield town, Chester town Granville town, Tolland town, Wales town
Franklin	53.22	49.68	21.29	Ashfield town, Bernardston town, Buckland town Charlemont town, Colrain town, Conway town Deerfield town, Erving town, Gill town, Greenfield town Hawley town, Heath town, Leverett town, Leyden town Monroe town, Montague town, New Salem town Northfield town, Orange town, Rowe town, Shelburne town Shutesbury town, Warwick town, Wendell town Whately town
Dukes	70.07	65.40	28.03	
Berkshire	47.26	44.11	18.90	Alford town, Becket town, Clarksburg town, Egremont town Florida town, Great Barrington t, Hancock town Monterey town, Mount Washington t, New Ashford town New Marlborough to, North Adams city, Otis town Peru town, Sandisfield town, Savoy town, Sheffield town Tyringham town, Washington town, West Stockbridge t Williamstown town, Windsor town

M I C H I G A N

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Ann Arbor, MI PMSA	56.00	51.24	21.96	Lenawee, Washtenaw, Livingston
Benton Harbor, MI MSA	40.97	37.49	16.06	Berrien
Detroit, MI PMSA	46.99	43.00	18.43	Lapeer, St. Clair, Oakland, Monroe, Macomb, Wayne
Flint, MI PMSA	40.45	37.01	15.86	Genesee
Grand Rapids-Muskegon-Holland, MI MSA	44.36	40.59	17.40	Kent, Allegan, Ottawa, Muskegon
Jackson, MI MSA	40.62	37.17	15.93	Jackson
Kalamazoo-Battle Creek, MI MSA	42.36	38.76	16.61	Calhoun, Van Buren, Kalamazoo
Lansing-East Lansing, MI MSA	45.06	41.23	17.67	Eaton, Clinton, Ingham

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

111599

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

M I C H I G A N continued

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Saginaw-Bay City-Midland, MI MSA	40.18	36.77	15.76	Bay, Saginaw, Midland

NONMETROPOLITAN COUNTIES	A	B	C	NONMETROPOLITAN COUNTIES	A	B	C
Benzie	39.94	37.27	15.97	Barry	38.81	36.22	15.52
Baraga	37.24	34.75	14.90	Arenac	37.24	34.75	14.90
Antrim	39.94	37.27	15.97	Alpena	37.24	34.75	14.90
Alger	37.24	34.75	14.90	Alcona	37.24	34.75	14.90
Menominee	39.94	37.27	15.97	Mecosta	37.24	34.75	14.90
Mason	37.24	34.75	14.90	Marquette	39.94	37.27	15.97
Manistee	39.94	37.27	15.97	Mackinac	37.24	34.75	14.90
Luce	37.24	34.75	14.90	Leelanau	41.06	38.33	16.42
Lake	37.24	34.75	14.90	Keweenaw	37.24	34.75	14.90
Kalkaska	39.94	37.27	15.97	Isabella	40.19	37.51	16.08
Iron	37.24	34.75	14.90	Iosco	37.24	34.75	14.90
Ionia	37.33	34.84	14.93	Huron	37.24	34.75	14.90
Houghton	37.24	34.75	14.90	Hillsdale	39.75	37.11	15.90
Gratiot	40.19	37.51	16.08	Grand Traverse	41.34	38.58	16.53
Gogebic	37.24	34.75	14.90	Gladwin	37.24	34.75	14.90
Emmet	39.94	37.27	15.97	Dickinson	37.24	34.75	14.90
Delta	37.24	34.75	14.90	Crawford	37.24	34.75	14.90
Clare	37.24	34.75	14.90	Chippewa	37.24	34.75	14.90
Cheboygan	37.24	34.75	14.90	Charlevoix	39.94	37.27	15.97
Cass	37.24	34.75	14.90	Branch	37.49	34.99	15.00
Wexford	39.94	37.27	15.97	Tuscola	37.37	34.88	14.95
Shiawassee	39.67	37.02	15.87	Schoolcraft	37.24	34.75	14.90
Sanilac	37.24	34.75	14.90	St. Joseph	37.49	34.99	15.00
Roscommon	37.24	34.75	14.90	Presque Isle	37.24	34.75	14.90
Otsego	37.24	34.75	14.90	Oscoda	37.24	34.75	14.90
Osceola	37.24	34.75	14.90	Ontonagon	37.24	34.75	14.90
Ogemaw	37.24	34.75	14.90	Oceana	37.24	34.75	14.90
Newaygo	37.24	34.75	14.90	Montmorency	37.24	34.75	14.90
Montcalm	37.24	34.75	14.90	Missaukee	39.94	37.27	15.97

M I N N E S O T A

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Duluth-Superior, MN-WI MSA	39.39	36.76	15.75	St. Louis
Fargo-Moorhead, ND-MN MSA	40.84	38.11	16.33	Clay
Grand Forks, ND-MN MSA	39.04	36.44	15.61	Polk

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

M I N N E S O T A continued

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
La Crosse, WI-MN MSA	43.90	40.96	17.56	Houston
Minneapolis-St. Paul, MN-WI MSA	53.25	49.70	21.30	Carver, Anoka, Washington, Sherburne, Scott, Ramsey Isanti, Hennepin, Dakota, Chisago, Wright
Rochester, MN MSA	44.09	41.16	17.63	Olmsted
St. Cloud, MN MSA	40.57	37.87	16.23	Stearns, Benton

NONMETROPOLITAN COUNTIES	A	B	C	NONMETROPOLITAN COUNTIES	A	B	C
Big Stone	36.60	34.15	14.64	Beltrami	36.60	34.15	14.64
Becker	36.60	34.15	14.64	Aitkin	37.79	35.27	15.11
Cottonwood	36.60	34.15	14.64	Cook	36.60	34.15	14.64
Clearwater	36.60	34.15	14.64	Chippewa	36.60	34.15	14.64
Cass	36.60	34.15	14.64	Carlton	36.60	34.15	14.64
Brown	36.60	34.15	14.64	Blue Earth	40.02	37.35	16.01
Lac Qui Parle	36.60	34.15	14.64	Koochiching	36.60	34.15	14.64
Kittson	36.60	34.15	14.64	Kandiyohi	38.39	35.83	15.36
Kanabec	36.60	34.15	14.64	Jackson	36.60	34.15	14.64
Itasca	36.60	34.15	14.64	Hubbard	36.60	34.15	14.64
Grant	36.60	34.15	14.64	Goodhue	36.60	34.15	14.64
Freeborn	39.92	37.27	15.97	Fillmore	36.60	34.15	14.64
Faribault	36.60	34.15	14.64	Douglas	36.60	34.15	14.64
Dodge	36.60	34.15	14.64	Crow Wing	36.60	34.15	14.64
Yellow Medicine	36.60	34.15	14.64	Winona	37.11	34.63	14.84
Wilkin	36.60	34.15	14.64	Watonwan	36.60	34.15	14.64
Waseca	36.60	34.15	14.64	Wadena	36.60	34.15	14.64
Wabasha	36.60	34.15	14.64	Traverse	36.60	34.15	14.64
Todd	36.60	34.15	14.64	Swift	36.60	34.15	14.64
Stevens	36.60	34.15	14.64	Steele	39.92	37.27	15.97
Sibley	38.05	35.52	15.22	Roseau	36.60	34.15	14.64
Rock	36.60	34.15	14.64	Rice	41.12	38.38	16.45
Renville	38.39	35.83	15.36	Redwood	36.60	34.15	14.64
Red Lake	36.60	34.15	14.64	Pope	36.60	34.15	14.64
Pipestone	36.60	34.15	14.64	Pine	36.60	34.15	14.64
Pennington	36.60	34.15	14.64	Otter Tail	36.60	34.15	14.64
Norman	36.60	34.15	14.64	Nobles	36.60	34.15	14.64
Nicollet	38.56	35.99	15.42	Murray	36.60	34.15	14.64
Mower	36.60	34.15	14.64	Morrison	36.60	34.15	14.64
Mille Lacs	36.60	34.15	14.64	Meeker	38.39	35.83	15.36
Martin	36.60	34.15	14.64	Marshall	36.60	34.15	14.64
Mahnomen	36.60	34.15	14.64	Mcleod	38.39	35.83	15.36
Lyon	36.60	34.15	14.64	Lincoln	36.60	34.15	14.64

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

111599

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

M I N N E S O T A continued

NONMETROPOLITAN COUNTIES	A	B	C
Le Sueur	38.05	35.52	15.22
Lake	36.60	34.15	14.64
Lake Of The Woods	36.60	34.15	14.64

M I S S I S S I P P I

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Biloxi-Gulfport-Pascagpula, MS MSA	38.49	35.92	15.40	Hancock, Jackson, Harrison
Hattiesburg, MS MSA	38.49	35.92	15.40	Lamar, Forrest
Jackson, MS MSA	45.41	42.39	18.16	Madison, Hinds, Rankin
Memphis, TN-AR-MS MSA	41.71	38.94	16.69	Desoto

NONMETROPOLITAN COUNTIES	A	B	C	NONMETROPOLITAN COUNTIES	A	B	C
Alcorn	38.68	36.10	15.47	Adams	38.68	36.10	15.47
Bolivar	38.68	36.10	15.47	Benton	38.68	36.10	15.47
Attala	38.68	36.10	15.47	Amite	38.68	36.10	15.47
Coahoma	38.68	36.10	15.47	Clay	38.68	36.10	15.47
Clarke	38.68	36.10	15.47	Claiborne	38.68	36.10	15.47
Choctaw	38.68	36.10	15.47	Chickasaw	38.68	36.10	15.47
Carroll	38.68	36.10	15.47	Calhoun	38.68	36.10	15.47
Yazoo	38.68	36.10	15.47	Yalobusha	38.68	36.10	15.47
Winston	38.68	36.10	15.47	Wilkinson	38.68	36.10	15.47
Webster	38.68	36.10	15.47	Wayne	38.68	36.10	15.47
Washington	38.68	36.10	15.47	Warren	38.68	36.10	15.47
Walthall	38.68	36.10	15.47	Union	38.68	36.10	15.47
Tunica	38.68	36.10	15.47	Tishomingo	38.68	36.10	15.47
Tippah	38.68	36.10	15.47	Tate	38.68	36.10	15.47
Tallahatchie	38.68	36.10	15.47	Sunflower	38.68	36.10	15.47
Stone	38.68	36.10	15.47	Smith	38.68	36.10	15.47
Simpson	38.68	36.10	15.47	Sharkey	38.68	36.10	15.47
Scott	38.68	36.10	15.47	Quitman	38.68	36.10	15.47
Prentiss	38.68	36.10	15.47	Pontotoc	38.68	36.10	15.47
Pike	38.68	36.10	15.47	Perry	38.68	36.10	15.47
Pearl River	38.68	36.10	15.47	Panola	38.68	36.10	15.47
Oktibbeha	38.68	36.10	15.47	Noxubee	38.68	36.10	15.47
Newton	38.68	36.10	15.47	Neshoba	38.68	36.10	15.47
Montgomery	38.68	36.10	15.47	Monroe	38.68	36.10	15.47
Marshall	38.68	36.10	15.47	Marion	38.68	36.10	15.47
Lowndes	38.68	36.10	15.47	Lincoln	38.68	36.10	15.47
Leflore	38.68	36.10	15.47	Lee	38.68	36.10	15.47
Leake	38.68	36.10	15.47	Lawrence	38.68	36.10	15.47

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

M I S S I S S I P P I continued

NONMETROPOLITAN COUNTIES	A	B	C	NONMETROPOLITAN COUNTIES	A	B	C
Lauderdale	38.68	36.10	15.47	Lafayette	38.68	36.10	15.47
Kemper	38.68	36.10	15.47	Jones	38.68	36.10	15.47
Jefferson Davis	38.68	36.10	15.47	Jefferson	38.68	36.10	15.47
Jasper	38.68	36.10	15.47	Itawamba	38.68	36.10	15.47
Issaquena	38.68	36.10	15.47	Humphreys	38.68	36.10	15.47
Holmes	38.68	36.10	15.47	Grenada	38.68	36.10	15.47
Greene	38.68	36.10	15.47	George	38.68	36.10	15.47
Franklin	38.68	36.10	15.47	Covington	38.68	36.10	15.47
Copiah	38.68	36.10	15.47				

M I S S O U R I

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Columbia, MO MSA	36.24	33.82	14.49	Boone
Joplin, MO MSA	36.02	33.61	14.41	Newton, Jasper
Kansas City, MO-KS MSA	41.15	38.40	16.46	Clay, Cass, Ray, Platte, Lafayette, Jackson, Clinton
St. Joseph, MO MSA	36.02	33.61	14.41	Andrew, Buchanan
St. Louis, MO-IL MSA	42.33	39.50	16.93	Crawford-Sullivan (PART), St. Louis City, Warren St. Louis, St. Charles, Lincoln, Jefferson, Franklin
Springfield, MO MSA	36.02	33.61	14.41	Christian, Webster, Greene

NONMETROPOLITAN COUNTIES	A	B	C	NONMETROPOLITAN COUNTIES	A	B	C
Atchison	38.40	35.83	15.36	Adair	38.40	35.83	15.36
Bates	38.40	35.83	15.36	Barton	38.40	35.83	15.36
Barry	38.40	35.83	15.36	Audrain	38.40	35.83	15.36
Carroll	38.40	35.83	15.36	Cape Girardeau	38.40	35.83	15.36
Camden	38.40	35.83	15.36	Callaway	38.40	35.83	15.36
Caldwell	38.40	35.83	15.36	Butler	38.40	35.83	15.36
Bollinger	38.40	35.83	15.36	Benton	38.40	35.83	15.36
Mcdonald	38.40	35.83	15.36	Livingston	38.40	35.83	15.36
Linn	38.40	35.83	15.36	Lewis	38.40	35.83	15.36
Lawrence	38.40	35.83	15.36	Laclede	38.40	35.83	15.36
Knox	38.40	35.83	15.36	Johnson	38.40	35.83	15.36
Iron	38.40	35.83	15.36	Howell	38.40	35.83	15.36
Howard	38.40	35.83	15.36	Holt	38.40	35.83	15.36
Hickory	38.40	35.83	15.36	Henry	38.40	35.83	15.36
Harrison	38.40	35.83	15.36	Grundy	38.40	35.83	15.36
Gentry	38.40	35.83	15.36	Gasconade	38.40	35.83	15.36
Dunklin	38.40	35.83	15.36	Douglas	38.40	35.83	15.36
Dent	38.40	35.83	15.36	Dekalb	38.40	35.83	15.36
Daviess	38.40	35.83	15.36	Dallas	38.40	35.83	15.36

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

111599

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

M I S S O U R I continued

NONMETROPOLITAN COUNTIES	A	B	C
Dade	38.40	35.83	15.36
Cooper	38.40	35.83	15.36
Clark	38.40	35.83	15.36
Cedar	38.40	35.83	15.36
Wright	38.40	35.83	15.36
Wayne	38.40	35.83	15.36
Vernon	38.40	35.83	15.36
Taney	38.40	35.83	15.36
Stone	38.40	35.83	15.36
Shelby	38.40	35.83	15.36
Scott	38.40	35.83	15.36
Schuyler	38.40	35.83	15.36
St. Francois	38.40	35.83	15.36
St. Clair	38.40	35.83	15.36
Reynolds	38.40	35.83	15.36
Ralls	38.40	35.83	15.36
Pulaski	38.40	35.83	15.36
Pike	38.40	35.83	15.36
Pettis	38.40	35.83	15.36
Pemiscot	38.40	35.83	15.36
Osage	38.40	35.83	15.36
Nodaway	38.40	35.83	15.36
Morgan	38.40	35.83	15.36
Monroe	38.40	35.83	15.36
Mississippi	38.40	35.83	15.36
Mercer	38.40	35.83	15.36
Maries	38.40	35.83	15.36
Macon	38.40	35.83	15.36

NONMETROPOLITAN COUNTIES	A	B	C
Crawford	38.40	35.83	15.36
Cole	38.40	35.83	15.36
Chariton	38.40	35.83	15.36
Carter	38.40	35.83	15.36
Worth	38.40	35.83	15.36
Washington	38.40	35.83	15.36
Texas	38.40	35.83	15.36
Sullivan	38.40	35.83	15.36
Stoddard	38.40	35.83	15.36
Shannon	38.40	35.83	15.36
Scotland	38.40	35.83	15.36
Saline	38.40	35.83	15.36
Ste. Genevieve	38.40	35.83	15.36
Ripley	38.40	35.83	15.36
Randolph	38.40	35.83	15.36
Putnam	38.40	35.83	15.36
Polk	38.40	35.83	15.36
Phelps	38.40	35.83	15.36
Perry	38.40	35.83	15.36
Ozark	38.40	35.83	15.36
Oregon	38.40	35.83	15.36
New Madrid	38.40	35.83	15.36
Montgomery	38.40	35.83	15.36
Moniteau	38.40	35.83	15.36
Miller	38.40	35.83	15.36
Marion	38.40	35.83	15.36
Madison	38.40	35.83	15.36

M O N T A N A

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Billings, MT MSA	50.16	46.81	20.06	Yellowstone
Great Falls, MT MSA	44.41	41.46	17.76	Cascade
Missoula, MT MSA	45.14	42.13	18.06	Missoula

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

M O N T A N A continued

NONMETROPOLITAN COUNTIES	A	B	C
Mineral	42.21	39.40	16.88
Madison	41.36	38.60	16.54
Lincoln	42.21	39.40	16.88
Lewis And Clark	48.10	44.89	19.24
Judith Basin	38.97	36.37	15.59
Hill	38.46	35.89	15.38
Golden Valley	38.97	36.37	15.59
Garfield	38.97	36.37	15.59
Silver Bow	41.36	38.60	16.54
Sanders	42.21	39.40	16.88
Roosevelt	38.46	35.89	15.38
Ravalli	42.21	39.40	16.88
Powell	41.36	38.60	16.54
Pondera	38.46	35.89	15.38
Petroleum	38.97	36.37	15.59
Musselshell	38.97	36.37	15.59
Wheatland	38.97	36.37	15.59
Treasure	38.97	36.37	15.59
Teton	38.46	35.89	15.38
Beaverhead	41.36	38.60	16.54
Big Horn	38.97	36.37	15.59
Carter	38.97	36.37	15.59
Broadwater	41.36	38.60	16.54
Flathead	42.21	39.40	16.88
Fallon	38.97	36.37	15.59
Dawson	38.97	36.37	15.59
Custer	38.97	36.37	15.59

NONMETROPOLITAN COUNTIES	A	B	C
Meagher	41.36	38.60	16.54
Mccone	38.97	36.37	15.59
Liberty	38.46	35.89	15.38
Lake	42.21	39.40	16.88
Jefferson	41.36	38.60	16.54
Granite	41.36	38.60	16.54
Glacier	38.46	35.89	15.38
Stillwater	38.97	36.37	15.59
Sheridan	38.46	35.89	15.38
Rosebud	38.97	36.37	15.59
Richland	38.97	36.37	15.59
Prairie	38.97	36.37	15.59
Powder River	38.97	36.37	15.59
Phillips	38.46	35.89	15.38
Park	41.36	38.60	16.54
Wibaux	38.97	36.37	15.59
Valley	38.46	35.89	15.38
Toole	38.46	35.89	15.38
Sweet Grass	38.97	36.37	15.59
Blaine	38.46	35.89	15.38
Chouteau	38.46	35.89	15.38
Carbon	38.97	36.37	15.59
Gallatin	46.39	43.30	18.56
Fergus	38.97	36.37	15.59
Deer Lodge	41.36	38.60	16.54
Daniels	38.46	35.89	15.38

N E B R A S K A

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Lincoln, NE MSA	41.67	38.88	16.67	Lancaster
Omaha, NE-IA MSA	42.21	39.40	16.89	Washington, Sarpy, Douglas, Cass
Sioux City, IA-NE MSA	40.73	38.01	16.29	Dakota

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

N E B R A S K A continued

NONMETROPOLITAN COUNTIES	A	B	C
Adams	37.75	35.23	15.10
Antelope	37.75	35.23	15.10
Colfax	37.75	35.23	15.10
Cheyenne	37.75	35.23	15.10
Chase	37.75	35.23	15.10
Butler	37.75	35.23	15.10
Buffalo	37.75	35.23	15.10
Boyd	37.75	35.23	15.10
Boone	37.75	35.23	15.10
Banner	37.75	35.23	15.10
Thurston	37.75	35.23	15.10
Thayer	37.75	35.23	15.10
Sioux	37.75	35.23	15.10
Sheridan	37.75	35.23	15.10
Scotts Bluff	37.75	35.23	15.10
Saline	37.75	35.23	15.10
Richardson	37.75	35.23	15.10
Polk	37.75	35.23	15.10
Pierce	37.75	35.23	15.10
Perkins	37.75	35.23	15.10
Otoe	37.75	35.23	15.10
Nemaha	37.75	35.23	15.10
Morrill	37.75	35.23	15.10
Madison	37.75	35.23	15.10
Loup	37.75	35.23	15.10
Lincoln	37.75	35.23	15.10
Kimball	37.75	35.23	15.10
Keith	37.75	35.23	15.10
Johnson	37.75	35.23	15.10
Howard	37.75	35.23	15.10
Holt	37.75	35.23	15.10
Hayes	37.75	35.23	15.10
Hamilton	37.75	35.23	15.10
Greeley	37.75	35.23	15.10
Gosper	37.75	35.23	15.10
Garden	37.75	35.23	15.10
Furnas	37.75	35.23	15.10
Franklin	37.75	35.23	15.10
Dundy	37.75	35.23	15.10
Dixon	37.75	35.23	15.10

NONMETROPOLITAN COUNTIES	A	B	C
Arthur	37.75	35.23	15.10
Cuming	37.75	35.23	15.10
Clay	37.75	35.23	15.10
Cherry	37.75	35.23	15.10
Cedar	37.75	35.23	15.10
Burt	37.75	35.23	15.10
Brown	37.75	35.23	15.10
Box Butte	37.75	35.23	15.10
Blaine	37.75	35.23	15.10
Valley	37.75	35.23	15.10
Thomas	37.75	35.23	15.10
Stanton	37.75	35.23	15.10
Sherman	37.75	35.23	15.10
Seward	37.75	35.23	15.10
Saunders	37.75	35.23	15.10
Rock	37.75	35.23	15.10
Red Willow	37.75	35.23	15.10
Platte	37.75	35.23	15.10
Phelps	37.75	35.23	15.10
Pawnee	37.75	35.23	15.10
Nuckolls	37.75	35.23	15.10
Nance	37.75	35.23	15.10
Merrick	37.75	35.23	15.10
Mcpherson	37.75	35.23	15.10
Logan	37.75	35.23	15.10
Knox	37.75	35.23	15.10
Keya Paha	37.75	35.23	15.10
Kearney	37.75	35.23	15.10
Jefferson	37.75	35.23	15.10
Hooker	37.75	35.23	15.10
Hitchcock	37.75	35.23	15.10
Harlan	37.75	35.23	15.10
Hall	37.75	35.23	15.10
Grant	37.75	35.23	15.10
Garfield	37.75	35.23	15.10
Gage	37.75	35.23	15.10
Frontier	37.75	35.23	15.10
Fillmore	37.75	35.23	15.10
Dodge	37.75	35.23	15.10
Deuel	37.75	35.23	15.10

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

N E B R A S K A continued

NONMETROPOLITAN COUNTIES	A	B	C
Dawson	37.75	35.23	15.10
Custer	37.75	35.23	15.10
Wheeler	37.75	35.23	15.10
Wayne	37.75	35.23	15.10
Dawes	37.75	35.23	15.10
York	37.75	35.23	15.10
Webster	37.75	35.23	15.10

N E V A D A

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Las Vegas, NV-AZ MSA	60.28	55.69	23.86	Nye, Clark
Reno, NV MSA	52.22	48.24	20.67	Washoe

NONMETROPOLITAN COUNTIES	A	B	C
Churchill	53.01	48.51	20.79
Lincoln	53.01	48.51	20.79
Humboldt	53.01	48.51	20.79
Esmeralda	53.01	48.51	20.79
Douglas	54.87	50.21	21.52
White Pine	53.01	48.51	20.79
Pershing	53.01	48.51	20.79
Lyon	53.01	48.51	20.79
Lander	53.01	48.51	20.79
Eureka	53.01	48.51	20.79
Elko	53.01	48.51	20.79
Carson City	53.01	48.51	20.79
Storey	53.01	48.51	20.79
Mineral	53.01	48.51	20.79

N E W H A M P S H I R E

METROPOLITAN FMR AREAS	A	B	C	Components of FMR AREA within STATE
Boston, MA-NH PMSA	68.50	63.93	27.40	Rockingham county towns of Seabrook town South Hampton town
Lawrence, MA-NH PMSA	55.04	51.37	22.02	Rockingham county towns of Atkinson town, Chester town Danville town, Derry town, Fremont town, Hampstead town Kingston town, Newton town, Plaistow town, Raymond town Salem town, Sandown town, Windham town
Lowell, MA-NH PMSA	57.50	53.66	23.00	Hillsborough county towns of Pelham town
Manchester, NH PMSA	53.19	49.14	21.06	Rockingham county towns of Auburn town, Candia town Londonderry town Merrimack county towns of Allenstown town, Hooksett town Hillsborough county towns of Bedford town, Goffstown town Manchester city, Weare town
Nashua, NH PMSA	56.50	52.20	22.37	Hillsborough county towns of Amherst town, Brookline town Greenville town, Hollis town, Hudson town Litchfield town, Mason town, Merrimack town Milford town, Mont Vernon town, Nashua city New Ipswich town, Wilton town
Portsmouth-Rochester, NH-ME PMSA	55.08	50.89	21.81	Strafford county towns of Barrington town, Dover city Durham town, Farmington town, Lee town, Madbury town Milton town, Rochester city, Rollinsford town

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

111599

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

N E W H A M P S H I R E continued

METROPOLITAN FMR AREAS	A	B	C	Components of FMR AREA within STATE
				Somersworth city Rockingham county towns of Brentwood town East Kingston town, Epping town, Exeter town Greenland town, Hampton town, Hampton Falls town Kensington town, New Castle town, Newfields town Newington town, Newmarket town, North Hampton town Portsmouth city, Rye town, Stratham town

NONMETROPOLITAN COUNTIES	A	B	C	Towns within non metropolitan counties
Carroll	49.91	46.50	19.93	
Belknap	49.65	46.25	19.82	
Sullivan	48.13	44.85	19.22	
Strafford	56.96	53.07	22.74	Middleton town, New Durham town, Strafford town
Rockingham	61.77	57.55	24.66	Deerfield town, Northwood town, Nottingham town
Merrimack	63.03	58.72	25.17	Andover town, Boscawen town, Bow town, Bradford town Canterbury town, Chichester town, Concord city Danbury town, Dunbarton town, Epsom town, Franklin city Henniker town, Hill town, Hopkinton town, Loudon town Newbury town, New London town, Northfield town Pembroke town, Pittsfield town, Salisbury town Sutton town, Warner town, Webster town, Wilmot town
Hillsborough	63.95	59.58	25.54	Antrim town, Bennington town, Deering town Francestown town, Greenfield town, Hancock town Hillsborough town, Lyndeborough town, New Boston town Peterborough town, Sharon town, Temple town Windsor town
Grafton	51.25	47.74	20.46	
Coos	45.18	42.10	18.04	
Cheshire	58.90	54.88	23.52	

N E W J E R S E Y

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Atlantic-Cape May, NJ PMSA	61.57	57.47	24.63	Cape May, Atlantic
Bergen-Passaic, NJ PMSA	74.57	69.60	29.83	Passaic, Bergen
Jersey City, NJ PMSA	62.14	58.00	24.86	Hudson
Middlesex-Somerset-Hunterdon, NJ PMSA	74.57	69.60	29.83	Hunterdon, Somerset, Middlesex
Monmouth-Ocean, NJ PMSA	73.00	68.13	29.20	Ocean, Monmouth
Newark, NJ PMSA	72.81	67.95	29.12	Morris, Essex, Warren, Union, Sussex
Philadelphia, PA-NJ PMSA	56.85	53.06	22.74	Burlington, Salem, Gloucester, Camden
Trenton, NJ PMSA	71.54	66.77	28.62	Mercer
Vineland-Millville-Bridgeton, NJ PMSA	59.20	55.25	23.68	Cumberland

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

111599

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

N E W M E X I C O

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Albuquerque, NM MSA	49.61	46.30	19.84	Bernalillo, Valencia, Sandoval
Las Cruces, NM MSA	39.37	36.74	15.75	Dona Ana
Santa Fe, NM MSA	58.70	54.79	23.48	Los Alamos, Santa Fe

NONMETROPOLITAN COUNTIES	A	B	C	NONMETROPOLITAN COUNTIES	A	B	C
Catron	36.79	34.33	14.72	Curry	36.79	34.33	14.72
Colfax	36.79	34.33	14.72	Cibola	36.79	34.33	14.72
Chaves	37.22	34.73	14.89	Lincoln	37.22	34.73	14.89
Lea	41.09	38.35	16.44	Hidalgo	36.79	34.33	14.72
Harding	36.79	34.33	14.72	Guadalupe	36.79	34.33	14.72
Grant	36.79	34.33	14.72	Eddy	41.09	38.35	16.44
Debaca	36.79	34.33	14.72	Union	36.79	34.33	14.72
Torrance	36.79	34.33	14.72	Taos	39.23	36.62	15.69
Socorro	37.22	34.73	14.89	Sierra	37.22	34.73	14.89
San Miguel	36.79	34.33	14.72	San Juan	47.53	44.36	19.01
Roosevelt	36.79	34.33	14.72	Rio Arriba	36.79	34.33	14.72
Quay	36.79	34.33	14.72	Otero	37.22	34.73	14.89
Mora	36.79	34.33	14.72	Mckinley	47.53	44.36	19.01
Luna	36.79	34.33	14.72				

N E W Y O R K

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Albany-Schenectady-Troy, NY MSA	50.58	46.68	20.01	Montgomery, Albany, Schoharie, Schenectady, Saratoga Rensselaer
Binghamton, NY MSA	44.14	40.73	17.46	Tioga, Broome
Buffalo-Niagara Falls, NY PMSA	43.51	40.16	17.21	Niagara, Erie
Dutchess County, NY PMSA	69.69	64.32	27.57	Dutchess
Elmira, NY MSA	44.95	41.47	17.78	Chemung
Glens Falls, NY MSA	47.89	44.19	18.94	Washington, Warren
Jamestown, NY MSA	41.64	38.42	16.47	Chautauqua
Nassau-Suffolk, NY PMSA	72.46	66.88	28.66	Nassau, Suffolk
New York, NY PMSA	62.98	58.12	24.91	Bronx, Rockland, Richmond, Queens, Putnam, New York Kings
Westchester County, NY	72.46	66.88	28.66	Westchester
Newburgh, NY-PA PMSA	64.74	59.74	25.60	Orange
Rochester, NY MSA	53.25	49.15	21.06	Wayne, Orleans, Ontario, Monroe, Livingston, Genesee
Syracuse, NY MSA	46.55	42.97	18.41	Madison, Cayuga, Oswego, Onondaga
Utica-Rome, NY MSA	42.62	39.34	16.86	Oneida, Herkimer

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

111599

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

N E W Y O R K continued

NONMETROPOLITAN COUNTIES	A	B	C
Clinton	42.10	39.07	16.75
Cattaraugus	37.50	34.81	14.92
Hamilton	40.48	37.57	16.10
Fulton	37.66	34.96	14.98
Essex	40.48	37.57	16.10
Cortland	45.85	42.56	18.24
Yates	41.76	38.76	16.61
Ulster	54.33	50.44	21.61
Sullivan	49.22	45.68	19.58
Seneca	44.74	41.53	17.80
St. Lawrence	41.59	38.61	16.54
Lewis	43.63	40.49	17.36
Chenango	44.06	40.89	17.52
Allegany	37.50	34.81	14.92
Greene	46.61	43.27	18.54
Franklin	40.48	37.57	16.10
Delaware	41.17	38.21	16.38
Columbia	43.48	40.36	17.30
Wyoming	41.59	38.61	16.54
Tompkins	47.45	44.05	18.88
Steuben	42.02	38.99	16.71
Schuyler	42.02	38.99	16.71
Otsego	41.17	38.21	16.38
Jefferson	45.68	42.39	18.17

N O R T H C A R O L I N A

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Asheville, NC MSA	38.14	35.59	15.26	Madison, Buncombe
Charlotte-Gastonia-Rock Hill, NC-SC MSA	41.78	38.99	16.71	Gaston, Cabarrus, Union, Rowan, Mecklenburg, Lincoln
Fayetteville, NC MSA	38.76	36.18	15.50	Cumberland
Goldsboro, NC MSA	38.14	35.59	15.26	Wayne
Greensboro--Winston-Salem--High Point, NC MSA	39.46	36.84	15.79	Davidson, Alamance, Yadkin, Stokes, Randolph, Guilford Forsyth, Davie
Greenville, NC MSA	38.14	35.59	15.26	Pitt
Hickory-Morganton, NC MSA	40.18	37.50	16.07	Alexander, Catawba, Caldwell, Burke
Jacksonville, NC MSA	38.14	35.59	15.26	Onslow
Norfolk-Virginia Beach-Newport News, VA-NC MSA	46.74	43.62	18.69	Currituck
Raleigh-Durham-Chapel Hill, NC MSA	45.56	42.52	18.22	Chatham, Franklin, Durham, Wake, Orange, Johnston
Rocky Mount, NC MSA	38.14	35.59	15.26	Edgecombe, Nash
Wilmington, NC MSA	38.14	35.59	15.26	Brunswick, New Hanover

NONMETROPOLITAN COUNTIES	A	B	C
Alleghany	37.95	35.41	15.18
Wilson	37.95	35.41	15.18
Watauga	46.10	43.03	18.44
Warren	37.95	35.41	15.18
Tyrrell	37.95	35.41	15.18
Swain	37.95	35.41	15.18
Stanly	37.95	35.41	15.18
Sampson	37.95	35.41	15.18
Rockingham	37.95	35.41	15.18
Richmond	37.95	35.41	15.18
Yancey	37.95	35.41	15.18
Wilkes	38.65	36.07	15.46
Washington	37.95	35.41	15.18
Vance	37.95	35.41	15.18
Transylvania	37.95	35.41	15.18
Surry	37.95	35.41	15.18
Scotland	37.95	35.41	15.18
Rutherford	37.95	35.41	15.18
Robeson	37.95	35.41	15.18
Polk	37.95	35.41	15.18

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

111599

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

N O R T H C A R O L I N A continued

NONMETROPOLITAN COUNTIES	A	B	C
Person	37.95	35.41	15.18
Pender	37.95	35.41	15.18
Pamlico	37.95	35.41	15.18
Moore	37.95	35.41	15.18
Mitchell	37.95	35.41	15.18
Macon	37.95	35.41	15.18
Lenoir	37.95	35.41	15.18
Jones	37.95	35.41	15.18
Iredell	41.40	38.64	16.56
Hoke	37.95	35.41	15.18
Henderson	37.95	35.41	15.18
Harnett	37.95	35.41	15.18
Greene	37.95	35.41	15.18
Graham	37.95	35.41	15.18
Duplin	37.95	35.41	15.18
Craven	37.95	35.41	15.18
Cleveland	37.95	35.41	15.18
Chowan	37.95	35.41	15.18
Caswell	37.95	35.41	15.18
Camden	37.95	35.41	15.18
Bertie	37.95	35.41	15.18
Avery	37.95	35.41	15.18
Anson	37.95	35.41	15.18

NONMETROPOLITAN COUNTIES	A	B	C
Perquimans	37.95	35.41	15.18
Pasquotank	37.95	35.41	15.18
Northampton	37.95	35.41	15.18
Montgomery	37.95	35.41	15.18
Martin	37.95	35.41	15.18
Mcdowell	37.95	35.41	15.18
Lee	38.29	35.74	15.32
Jackson	37.95	35.41	15.18
Hyde	37.95	35.41	15.18
Hertford	37.95	35.41	15.18
Haywood	37.95	35.41	15.18
Halifax	37.95	35.41	15.18
Granville	37.95	35.41	15.18
Gates	37.95	35.41	15.18
Dare	37.95	35.41	15.18
Columbus	37.95	35.41	15.18
Clay	37.95	35.41	15.18
Cherokee	37.95	35.41	15.18
Carteret	37.95	35.41	15.18
Bladen	37.95	35.41	15.18
Beaufort	37.95	35.41	15.18
Ashe	37.95	35.41	15.18

N O R T H D A K O T A

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Bismarck, ND MSA	40.92	38.19	16.37	Morton, Burleigh
Fargo-Moorhead, ND-MN MSA	40.84	38.11	16.33	Cass
Grand Forks, ND-MN MSA	39.04	36.44	15.61	Grand Forks

NONMETROPOLITAN COUNTIES	A	B	C
Billings	36.47	34.03	14.59
Barnes	36.47	34.03	14.59
Eddy	36.47	34.03	14.59
Divide	36.47	34.03	14.59
Cavalier	36.47	34.03	14.59
Bowman	36.47	34.03	14.59
Nelson	36.47	34.03	14.59
Mercer	36.47	34.03	14.59

NONMETROPOLITAN COUNTIES	A	B	C
Benson	36.47	34.03	14.59
Adams	36.47	34.03	14.59
Dunn	36.47	34.03	14.59
Dickey	36.47	34.03	14.59
Burke	36.47	34.03	14.59
Bottineau	36.47	34.03	14.59
Mountrail	36.47	34.03	14.59
Mclean	36.47	34.03	14.59

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

111599

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

N O R T H D A K O T A continued

NONMETROPOLITAN COUNTIES	A	B	C
Mckenzie	36.47	34.03	14.59
Mchenry	36.47	34.03	14.59
Lamoure	36.47	34.03	14.59
Hettinger	36.47	34.03	14.59
Grant	36.47	34.03	14.59
Foster	36.47	34.03	14.59
Williams	36.47	34.03	14.59
Ward	36.47	34.03	14.59
Traill	36.47	34.03	14.59
Stutsman	36.47	34.03	14.59
Stark	36.47	34.03	14.59
Sioux	36.47	34.03	14.59
Sargent	36.47	34.03	14.59
Richland	36.47	34.03	14.59
Ransom	36.47	34.03	14.59
Pierce	36.47	34.03	14.59
Oliver	36.47	34.03	14.59

NONMETROPOLITAN COUNTIES	A	B	C
Mcintosh	36.47	34.03	14.59
Logan	36.47	34.03	14.59
Kidder	36.47	34.03	14.59
Griggs	36.47	34.03	14.59
Golden Valley	36.47	34.03	14.59
Emmons	36.47	34.03	14.59
Wells	36.47	34.03	14.59
Walsh	36.47	34.03	14.59
Towner	36.47	34.03	14.59
Steele	36.47	34.03	14.59
Slope	36.47	34.03	14.59
Sheridan	36.47	34.03	14.59
Rolette	36.47	34.03	14.59
Renville	36.47	34.03	14.59
Ramsey	36.47	34.03	14.59
Pembina	36.47	34.03	14.59

O H I O

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Akron, OH PMSA	44.27	41.31	17.71	Portage, Summit
Brown County, OH	38.14	35.59	15.26	Brown
Canton-Massillon, OH MSA	38.14	35.59	15.26	Stark, Carroll
Cincinnati, OH-KY-IN	43.57	40.66	17.43	Hamilton, Clermont, Warren
Cleveland-Lorain-Elyria, OH PMSA	45.00	42.00	18.00	Ashtabula, Geauga, Cuyahoga, Medina, Lorain, Lake
Columbus, OH MSA	42.68	39.83	17.07	Delaware, Madison, Licking, Franklin, Fairfield, Pickaway
Dayton-Springfield, OH MSA	39.75	37.10	15.90	Clark, Miami, Greene, Montgomery
Hamilton-Middletown, OH PMSA	45.28	42.26	18.11	Butler
Huntington-Ashland, WV-KY-OH MSA	37.57	35.06	15.03	Lawrence
Lima, OH MSA	38.76	36.18	15.50	Allen, Auglaize
Mansfield, OH MSA	38.14	35.59	15.26	Crawford, Richland
Parkersburg-Marietta, WV-OH MSA	34.96	32.63	13.98	Washington
Steubenville-Weirton, OH-WV MSA	39.03	36.42	15.61	Jefferson
Toledo, OH MSA	44.72	41.75	17.89	Fulton, Wood, Lucas
Wheeling, WV-OH MSA	38.58	36.01	15.43	Belmont
Youngstown-Warren, OH MSA	38.76	36.18	15.50	Columbiana, Trumbull, Mahoning

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

O H I O continued

NONMETROPOLITAN COUNTIES	A	B	C
Champaign	37.72	35.20	15.09
Ashland	37.72	35.20	15.09
Preble	37.81	35.29	15.12
Perry	37.72	35.20	15.09
Ottawa	39.66	37.01	15.86
Muskingum	37.72	35.20	15.09
Morgan	37.72	35.20	15.09
Mercer	37.72	35.20	15.09
Marion	37.72	35.20	15.09
Knox	37.72	35.20	15.09
Huron	37.72	35.20	15.09
Hocking	37.72	35.20	15.09
Henry	38.77	36.19	15.51
Hardin	37.72	35.20	15.09
Guernsey	37.72	35.20	15.09
Fayette	37.72	35.20	15.09
Defiance	38.77	36.19	15.51
Coshocton	37.72	35.20	15.09
Wyandot	37.72	35.20	15.09
Wayne	37.89	35.37	15.16
Van Wert	37.72	35.20	15.09
Tuscarawas	37.72	35.20	15.09
Seneca	37.72	35.20	15.09
Sandusky	39.30	36.68	15.72
Putnam	37.72	35.20	15.09

NONMETROPOLITAN COUNTIES	A	B	C
Athens	37.72	35.20	15.09
Adams	37.72	35.20	15.09
Pike	37.72	35.20	15.09
Paulding	38.77	36.19	15.51
Noble	37.72	35.20	15.09
Morrow	37.72	35.20	15.09
Monroe	37.72	35.20	15.09
Meigs	37.72	35.20	15.09
Logan	37.72	35.20	15.09
Jackson	37.72	35.20	15.09
Holmes	37.72	35.20	15.09
Highland	37.72	35.20	15.09
Harrison	37.72	35.20	15.09
Hancock	37.81	35.29	15.12
Gallia	37.72	35.20	15.09
Erie	39.30	36.68	15.72
Darke	37.72	35.20	15.09
Clinton	37.72	35.20	15.09
Williams	38.77	36.19	15.51
Vinton	37.72	35.20	15.09
Union	42.03	39.24	16.81
Shelby	38.58	36.01	15.43
Scioto	37.72	35.20	15.09
Ross	37.72	35.20	15.09

O K L A H O M A

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Enid, OK MSA	41.40	38.44	16.48	Garfield
Fort Smith, AR-OK MSA	36.31	33.88	14.52	Sequoyah
Lawton, OK MSA	37.46	34.78	14.91	Comanche
Oklahoma City, OK MSA	38.51	35.76	15.33	Pottawatomie, Oklahoma, Mcclain, Logan, Cleveland Canadian
Tulsa, OK MSA	37.46	34.78	14.91	Osage, Creek, Wagoner, Tulsa, Rogers

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

111599

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

O K L A H O M A continued

NONMETROPOLITAN COUNTIES	A	B	C
Adair	37.36	34.72	14.88
Beaver	37.36	34.72	14.88
Alfalfa	37.36	34.72	14.88
Lincoln	37.36	34.72	14.88
Latimer	37.36	34.72	14.88
Kingfisher	37.36	34.72	14.88
Johnston	37.36	34.72	14.88
Jackson	37.36	34.72	14.88
Haskell	37.36	34.72	14.88
Harmon	37.36	34.72	14.88
Grant	37.36	34.72	14.88
Garvin	37.36	34.72	14.88
Dewey	37.36	34.72	14.88
Custer	37.36	34.72	14.88
Cotton	37.36	34.72	14.88
Cimarron	37.36	34.72	14.88
Cherokee	37.36	34.72	14.88
Caddo	37.36	34.72	14.88
Blaine	37.36	34.72	14.88
Woods	37.36	34.72	14.88
Washington	37.36	34.72	14.88
Texas	37.36	34.72	14.88
Seminole	37.36	34.72	14.88
Pushmataha	37.36	34.72	14.88
Pittsburg	37.36	34.72	14.88
Pawnee	37.36	34.72	14.88
Okmulgee	37.36	34.72	14.88
Nowata	37.36	34.72	14.88
Muskogee	37.36	34.72	14.88
Mayes	37.36	34.72	14.88
Major	37.36	34.72	14.88
Mccurtain	37.36	34.72	14.88

NONMETROPOLITAN COUNTIES	A	B	C
Beckham	37.36	34.72	14.88
Atoka	37.36	34.72	14.88
Love	37.36	34.72	14.88
Le Flore	37.36	34.72	14.88
Kiowa	37.36	34.72	14.88
Kay	37.36	34.72	14.88
Jefferson	37.36	34.72	14.88
Hughes	37.36	34.72	14.88
Harper	37.36	34.72	14.88
Greer	37.36	34.72	14.88
Grady	37.36	34.72	14.88
Ellis	37.36	34.72	14.88
Delaware	37.36	34.72	14.88
Craig	37.36	34.72	14.88
Coal	37.36	34.72	14.88
Choctaw	37.36	34.72	14.88
Carter	37.36	34.72	14.88
Bryan	37.36	34.72	14.88
Woodward	37.36	34.72	14.88
Washita	37.36	34.72	14.88
Tillman	37.36	34.72	14.88
Stephens	37.36	34.72	14.88
Roger Mills	37.36	34.72	14.88
Pontotoc	37.36	34.72	14.88
Payne	37.36	34.72	14.88
Ottawa	37.36	34.72	14.88
Okfuskee	37.36	34.72	14.88
Noble	37.36	34.72	14.88
Murray	37.36	34.72	14.88
Marshall	37.36	34.72	14.88
Mcintosh	37.36	34.72	14.88

O R E G O N

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Eugene-Springfield, OR MSA	55.96	52.22	22.38	Lane
Medford-Ashland, OR MSA	55.59	51.88	22.23	Jackson
Portland-Vancouver, OR-WA PMSA	48.68	45.44	19.47	Washington, Multnomah, Columbia, Clackamas, Yamhill

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

111599

O R E G O N continued

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Salem, OR PMSA	52.27	48.79	20.91	Marion, Polk

NONMETROPOLITAN COUNTIES	A	B	C
Baker	50.01	46.68	20.00
Crook	52.91	49.38	21.17
Jefferson	52.91	49.38	21.17
Harney	47.74	44.56	19.10
Gilliam	50.01	46.68	20.00
Deschutes	52.91	49.38	21.17
Wheeler	50.01	46.68	20.00
Wallowa	50.01	46.68	20.00
Umatilla	50.01	46.68	20.00
Sherman	52.91	49.38	21.17
Malheur	47.74	44.56	19.10
Lincoln	48.65	45.41	19.46
Klamath	47.74	44.56	19.10
Clatsop	48.65	45.41	19.46
Coos	52.27	48.79	20.91
Hood River	52.91	49.38	21.17
Grant	50.01	46.68	20.00
Douglas	52.27	48.79	20.91
Curry	52.27	48.79	20.91
Wasco	52.91	49.38	21.17
Union	50.01	46.68	20.00
Tillamook	48.65	45.41	19.46
Morrow	50.01	46.68	20.00
Linn	51.01	47.61	20.40
Lake	47.74	44.56	19.10
Josephine	52.27	48.79	20.91

P E N N S Y L V A N I A

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Allentown-Bethlehem-Easton, PA MSA	48.41	45.19	19.37	Lehigh, Carbon, Northampton
Altoona, PA MSA	41.93	39.13	16.77	Blair
Erie, PA MSA	48.16	44.95	19.26	Erie
Harrisburg-Lebanon-Carlisle, PA MSA	49.55	46.25	19.82	Cumberland, Perry, Lebanon, Dauphin
Johnstown, PA MSA	40.71	38.00	16.29	Cambria, Somerset
Lancaster, PA MSA	50.33	46.97	20.13	Lancaster
Newburgh, NY-PA PMSA	59.28	54.71	23.45	Pike
Philadelphia, PA-NJ PMSA	56.85	53.06	22.74	Bucks, Philadelphia, Montgomery, Delaware, Chester
Pittsburgh, PA PMSA	39.68	37.03	15.87	Westmoreland, Washington, Fayette, Butler, Beaver Allegheny
Reading, PA MSA	47.21	44.07	18.88	Berks
Scranton--Wilkes-Barre--Hazleton, PA MSA	38.46	35.90	15.39	Columbia, Wyoming, Luzerne, Lackawanna
Sharon, PA MSA	44.70	41.72	17.88	Mercer
State College, PA MSA	53.97	50.37	21.59	Centre
Williamsport, PA MSA	40.71	38.00	16.29	Lycoming
York, PA MSA	45.48	42.45	18.19	York

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

111599

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

P E N N S Y L V A N I A continued

NONMETROPOLITAN COUNTIES	A	B	C
Adams	46.54	43.44	18.62
Venango	39.28	36.65	15.71
Tioga	39.62	36.98	15.85
Sullivan	39.62	36.98	15.85
Schuylkill	44.32	41.37	17.73
Northumberland	41.05	38.31	16.42
Monroe	52.39	48.90	20.96
Mc Kean	40.16	37.48	16.07
Juniata	39.72	37.07	15.89
Indiana	47.70	44.51	19.08
Greene	41.05	38.31	16.42
Franklin	43.88	40.96	17.55
Elk	40.16	37.48	16.07
Clinton	39.81	37.15	15.92
Clarion	39.28	36.65	15.71
Bradford	39.62	36.98	15.85
Armstrong	47.70	44.51	19.08
Warren	40.69	37.98	16.28
Union	46.45	43.36	18.58
Susquehanna	39.62	36.98	15.85
Snyder	39.72	37.07	15.89
Potter	40.16	37.48	16.07
Montour	41.05	38.31	16.42
Mifflin	40.61	37.90	16.24
Lawrence	40.69	37.98	16.28
Jefferson	41.05	38.31	16.42
Huntingdon	38.56	36.00	15.43
Fulton	38.56	36.00	15.43
Forest	39.28	36.65	15.71
Crawford	40.69	37.98	16.28
Clearfield	41.05	38.31	16.42
Cameron	40.16	37.48	16.07
Bedford	38.56	36.00	15.43
Wayne	48.58	45.34	19.43

R H O D E I S L A N D

METROPOLITAN FMR AREAS	A	B	C	Components of FMR AREA within STATE
New London-Norwich, CT-RI MSA	58.80	54.88	23.52	Washington county towns of Hopkinton town, Westerly town Kent county towns of Coventry town, East Greenwich tow Warwick city, West Greenwich tow, West Warwick town Bristol county towns of Barrington town, Bristol town Warren town Washington county towns of Charlestown town, Exeter town Narragansett town, North Kingstown to, Richmond town South Kingstown to Providence county towns of Burrillville town Central Falls city, Cranston city, Cumberland town East Providence ci, Foster town, Glocester town Johnston town, Lincoln town, North Providence t North Smithfield t, Pawtucket city, Providence city Scituate town, Smithfield town, Woonsocket city Newport county towns of Jamestown town Little Compton tow, Tiverton town
Providence-Fall River-Warwick, RI-MA MSA	58.05	53.80	23.06	

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

111599

R H O D E I S L A N D continued

NONMETROPOLITAN COUNTIES	A	B	C	Towns within non metropolitan counties
Newport	67.89	63.36	27.15	Middletown town, Newport city, Portsmouth town
Washington	51.90	48.44	20.76	New Shoreham town

S O U T H C A R O L I N A

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Augusta-Aiken, GA-SC MSA	39.10	36.50	15.64	Aiken, Edgefield
Charleston-North Charleston, SC MSA	41.53	38.76	16.61	Berkeley, Dorchester, Charleston
Charlotte-Gastonia-Rock Hill, NC-SC MSA	41.78	38.99	16.71	York
Columbia, SC MSA	41.97	39.18	16.79	Lexington, Richland
Florence, SC MSA	37.18	34.69	14.87	Florence
Greenville-Spartanburg-Anderson, SC MSA	37.18	34.69	14.87	Cherokee, Anderson, Spartanburg, Pickens, Greenville
Myrtle Beach, SC MSA	37.18	34.69	14.87	Horry
Sumter, SC MSA	37.18	34.69	14.87	Sumter

NONMETROPOLITAN COUNTIES	A	B	C	NONMETROPOLITAN COUNTIES	A	B	C
Abbeville	37.69	35.17	15.08	Bamberg	37.69	35.17	15.08
Allendale	37.69	35.17	15.08	Chester	37.69	35.17	15.08
Calhoun	37.69	35.17	15.08	Beaufort	38.46	35.89	15.39
Barnwell	37.69	35.17	15.08	Williamsburg	37.69	35.17	15.08
Union	37.69	35.17	15.08	Saluda	37.69	35.17	15.08
Orangeburg	37.69	35.17	15.08	Oconee	37.69	35.17	15.08
Newberry	37.69	35.17	15.08	Marlboro	37.69	35.17	15.08
Marion	37.69	35.17	15.08	Mccormick	37.69	35.17	15.08
Lee	37.69	35.17	15.08	Laurens	37.69	35.17	15.08
Lancaster	37.69	35.17	15.08	Kershaw	37.69	35.17	15.08
Jasper	37.69	35.17	15.08	Hampton	37.69	35.17	15.08
Greenwood	37.69	35.17	15.08	Georgetown	37.69	35.17	15.08
Fairfield	37.69	35.17	15.08	Dillon	37.69	35.17	15.08
Darlington	37.69	35.17	15.08	Colleton	37.69	35.17	15.08
Clarendon	37.69	35.17	15.08	Chesterfield	37.69	35.17	15.08

S O U T H D A K O T A

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Rapid City, SD MSA	38.97	36.38	15.59	Pennington
Sioux Falls, SD MSA	41.62	38.84	16.65	Minnehaha, Lincoln

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

111599

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

S O U T H D A K O T A continued

NONMETROPOLITAN COUNTIES	A	B	C
Beadle	37.02	34.54	14.81
Brown	37.02	34.54	14.81
Bon Homme	37.02	34.54	14.81
Ziebach	37.02	34.54	14.81
Walworth	37.02	34.54	14.81
Turner	37.02	34.54	14.81
Todd	37.02	34.54	14.81
Stanley	40.21	37.53	16.08
Shannon	37.02	34.54	14.81
Roberts	37.02	34.54	14.81
Perkins	37.02	34.54	14.81
Miner	37.02	34.54	14.81
Meade	37.02	34.54	14.81
Mcpherson	37.02	34.54	14.81
Lyman	37.02	34.54	14.81
Lake	37.02	34.54	14.81
Jones	37.02	34.54	14.81
Jackson	37.02	34.54	14.81
Hutchinson	37.02	34.54	14.81
Harding	37.02	34.54	14.81
Hand	37.02	34.54	14.81
Haakon	37.02	34.54	14.81
Grant	37.02	34.54	14.81
Fall River	37.02	34.54	14.81
Douglas	37.02	34.54	14.81
Deuel	37.02	34.54	14.81
Davison	37.02	34.54	14.81
Corson	37.02	34.54	14.81
Clay	37.02	34.54	14.81
Charles Mix	37.02	34.54	14.81
Butte	37.02	34.54	14.81
Brule	37.02	34.54	14.81

NONMETROPOLITAN COUNTIES	A	B	C
Aurora	37.02	34.54	14.81
Brookings	37.02	34.54	14.81
Bennett	37.02	34.54	14.81
Yankton	37.02	34.54	14.81
Union	37.02	34.54	14.81
Tripp	37.02	34.54	14.81
Sully	37.02	34.54	14.81
Spink	37.02	34.54	14.81
Sanborn	37.02	34.54	14.81
Potter	37.02	34.54	14.81
Moody	37.02	34.54	14.81
Mellette	37.02	34.54	14.81
Marshall	37.02	34.54	14.81
Mccook	37.02	34.54	14.81
Lawrence	37.02	34.54	14.81
Kingsbury	37.02	34.54	14.81
Jerauld	37.02	34.54	14.81
Hyde	37.02	34.54	14.81
Hughes	40.21	37.53	16.08
Hanson	37.02	34.54	14.81
Hamlin	37.02	34.54	14.81
Gregory	37.02	34.54	14.81
Faulk	37.02	34.54	14.81
Edmunds	37.02	34.54	14.81
Dewey	37.02	34.54	14.81
Day	37.02	34.54	14.81
Custer	37.02	34.54	14.81
Codington	37.02	34.54	14.81
Clark	37.02	34.54	14.81
Campbell	37.02	34.54	14.81
Buffalo	37.02	34.54	14.81

T E N N E S S E E

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Chattanooga, TN-GA MSA	41.54	38.76	16.62	Hamilton, Marion
Clarksville-Hopkinsville, TN-KY MSA	42.26	39.45	16.91	Montgomery
Jackson, TN MSA	38.65	36.07	15.46	Madison, Chester

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

T E N N E S S E E continued

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Johnson City-Kingsport-Bristol, TN-VA MSA	38.65	36.07	15.46	Washington, Unicoi, Carter, Sullivan, Hawkins
Knoxville, TN MSA	38.92	36.32	15.57	Blount, Anderson, Union, Sevier, Loudon, Knox
Memphis, TN-AR-MS MSA	41.71	38.94	16.69	Tipton, Shelby, Fayette
Nashville, TN MSA	46.23	43.15	18.49	Cheatham, Rutherford, Robertson, Dickson, Davidson Wilson, Williamson, Sumner

NONMETROPOLITAN COUNTIES	A	B	C	NONMETROPOLITAN COUNTIES	A	B	C
Bedford	38.67	35.89	15.38	Campbell	38.67	35.89	15.38
Bradley	38.67	35.89	15.38	Bledsoe	38.67	35.89	15.38
Benton	38.67	35.89	15.38	Claiborne	38.67	35.89	15.38
Carroll	38.67	35.89	15.38	Cannon	38.67	35.89	15.38
Crockett	38.67	35.89	15.38	Coffee	38.67	35.89	15.38
Cocke	38.67	35.89	15.38	Clay	38.67	35.89	15.38
Macon	38.67	35.89	15.38	Mcnairy	38.67	35.89	15.38
Mcminn	38.67	35.89	15.38	Lincoln	38.67	35.89	15.38
Lewis	38.67	35.89	15.38	Lawrence	38.67	35.89	15.38
Lauderdale	38.67	35.89	15.38	Lake	38.67	35.89	15.38
Johnson	38.67	35.89	15.38	Jefferson	38.67	35.89	15.38
Jackson	38.67	35.89	15.38	Humphreys	38.67	35.89	15.38
Houston	38.67	35.89	15.38	Hickman	38.67	35.89	15.38
Henry	38.67	35.89	15.38	Henderson	38.67	35.89	15.38
Haywood	38.67	35.89	15.38	Hardin	38.67	35.89	15.38
Hardeman	38.67	35.89	15.38	Hancock	38.67	35.89	15.38
Hamblen	38.67	35.89	15.38	Grundy	38.67	35.89	15.38
Greene	38.67	35.89	15.38	Grainger	38.67	35.89	15.38
Giles	38.67	35.89	15.38	Gibson	38.67	35.89	15.38
Franklin	38.67	35.89	15.38	Fentress	38.67	35.89	15.38
Dyer	38.67	35.89	15.38	Dekalb	38.67	35.89	15.38
Decatur	38.67	35.89	15.38	Cumberland	38.67	35.89	15.38
White	38.67	35.89	15.38	Weakley	38.67	35.89	15.38
Wayne	38.67	35.89	15.38	Warren	38.67	35.89	15.38
Van Buren	38.67	35.89	15.38	Trousdale	38.67	35.89	15.38
Stewart	38.67	35.89	15.38	Smith	38.67	35.89	15.38
Sequatchie	41.56	38.57	16.53	Scott	38.67	35.89	15.38
Roane	38.67	35.89	15.38	Rhea	38.67	35.89	15.38
Putnam	38.67	35.89	15.38	Polk	38.67	35.89	15.38
Pickett	38.67	35.89	15.38	Perry	38.67	35.89	15.38
Overton	38.67	35.89	15.38	Obion	38.67	35.89	15.38
Morgan	38.67	35.89	15.38	Moore	38.67	35.89	15.38
Monroe	38.67	35.89	15.38	Meigs	38.67	35.89	15.38

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

111599

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

T E N N E S S E E continued

NONMETROPOLITAN COUNTIES	A	B	C
Maury	38.67	35.89	15.38

NONMETROPOLITAN COUNTIES	A	B	C
Marshall	38.67	35.89	15.38

T E X A S

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Abilene, TX MSA	36.47	34.03	14.59	Taylor
Amarillo, TX MSA	36.47	34.03	14.59	Potter, Randall
Austin-San Marcos, TX MSA	47.44	44.28	18.98	Bastrop, Williamson, Travis, Hays, Caldwell
Beaumont-Port Arthur, TX MSA	41.66	38.88	16.67	Orange, Jefferson, Hardin
Brazoria, TX PMSA	46.48	43.37	18.59	Brazoria
Brownsville-Harlingen-San Benito, TX MSA	36.98	34.51	14.79	Cameron
Bryan-College Station, TX MSA	48.73	45.49	19.49	Brazos
Corpus Christi, TX MSA	42.52	39.68	17.01	San Patricio, Nueces
Dallas, TX	48.65	45.41	19.46	Rockwall, Kaufman, Hunt, Ellis, Denton, Dallas, Collin
El Paso, TX MSA	40.30	37.62	16.12	El Paso
Fort Worth-Arlington, TX PMSA	45.32	42.30	18.13	Tarrant, Parker, Johnson, Hood
Galveston-Texas City, TX PMSA	41.80	39.01	16.72	Galveston
Henderson County, TX	36.47	34.03	14.59	Henderson
Houston, TX PMSA	43.04	40.17	17.21	Fort Bend, Chambers, Waller, Montgomery, Liberty, Harris
Killeen-Temple, TX MSA	36.47	34.03	14.59	Coryell, Bell
Laredo, TX MSA	36.47	34.03	14.59	Webb
Longview-Marshall, TX MSA	40.90	38.17	16.36	Gregg, Upshur, Harrison
Lubbock, TX MSA	36.47	34.03	14.59	Lubbock
Mc Allen-Edinburg-Mission, TX MSA	36.55	34.11	14.62	Hidalgo
Odessa-Midland, TX MSA	46.86	43.73	18.74	Midland, Ector
San Angelo, TX MSA	36.47	34.03	14.59	Tom Green
San Antonio, TX MSA	41.71	38.93	16.68	Bexar, Wilson, Guadalupe, Comal
Sherman-Denison, TX MSA	36.47	34.03	14.59	Grayson
Texarkana, TX-Texarkana, AR MSA	36.47	34.03	14.59	Bowie
Tyler, TX MSA	41.58	38.81	16.63	Smith
Victoria, TX MSA	50.53	47.15	20.21	Victoria
Waco, TX MSA	36.47	34.03	14.59	Mclennan
Wichita Falls, TX MSA	37.32	34.83	14.93	Wichita, Archer

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

T E X A S continued

NONMETROPOLITAN COUNTIES	A	B	C
Andrews	36.57	34.12	14.63
Atascosa	36.57	34.12	14.63
Aransas	36.57	34.12	14.63
Bosque	36.57	34.12	14.63
Blanco	36.57	34.12	14.63
Baylor	36.57	34.12	14.63
Bailey	36.57	34.12	14.63
Delta	36.57	34.12	14.63
Dawson	36.57	34.12	14.63
Culberson	36.57	34.12	14.63
Crockett	36.57	34.12	14.63
Cottle	36.57	34.12	14.63
Concho	36.57	34.12	14.63
Colorado	36.65	34.21	14.66
Coleman	36.57	34.12	14.63
Cochran	36.57	34.12	14.63
Childress	36.57	34.12	14.63
Castro	36.57	34.12	14.63
Carson	36.57	34.12	14.63
Callahan	36.57	34.12	14.63
Burnet	36.57	34.12	14.63
Brown	36.57	34.12	14.63
Briscoe	36.57	34.12	14.63
Zavala	36.57	34.12	14.63
Young	36.57	34.12	14.63
Wood	36.57	34.12	14.63
Winkler	36.57	34.12	14.63
Wilbarger	36.57	34.12	14.63
Wharton	36.65	34.21	14.66
Ward	36.57	34.12	14.63
Van Zandt	36.57	34.12	14.63
Uvalde	36.57	34.12	14.63
Tyler	36.57	34.12	14.63
Titus	36.57	34.12	14.63
Terry	36.57	34.12	14.63
Swisher	36.57	34.12	14.63
Stonewall	36.57	34.12	14.63
Stephens	36.57	34.12	14.63
Somervell	36.57	34.12	14.63
Shelby	36.57	34.12	14.63

NONMETROPOLITAN COUNTIES	A	B	C
Anderson	36.57	34.12	14.63
Armstrong	36.57	34.12	14.63
Angelina	36.57	34.12	14.63
Borden	36.57	34.12	14.63
Bee	36.57	34.12	14.63
Bandera	36.57	34.12	14.63
Austin	36.65	34.21	14.66
Deaf Smith	36.57	34.12	14.63
Dallam	36.57	34.12	14.63
Crosby	36.57	34.12	14.63
Crane	36.57	34.12	14.63
Cooke	36.57	34.12	14.63
Comanche	36.57	34.12	14.63
Collingsworth	36.57	34.12	14.63
Coke	36.57	34.12	14.63
Clay	36.57	34.12	14.63
Cherokee	36.57	34.12	14.63
Cass	36.57	34.12	14.63
Camp	36.57	34.12	14.63
Calhoun	36.57	34.12	14.63
Burleson	36.57	34.12	14.63
Brooks	36.57	34.12	14.63
Brewster	36.57	34.12	14.63
Zapata	36.57	34.12	14.63
Yoakum	36.57	34.12	14.63
Wise	36.65	34.21	14.66
Willacy	36.57	34.12	14.63
Wheeler	36.57	34.12	14.63
Washington	36.57	34.12	14.63
Walker	38.90	36.31	15.56
Val Verde	36.57	34.12	14.63
Upton	36.57	34.12	14.63
Trinity	36.57	34.12	14.63
Throckmorton	36.57	34.12	14.63
Terrell	36.57	34.12	14.63
Sutton	36.57	34.12	14.63
Sterling	36.57	34.12	14.63
Starr	36.57	34.12	14.63
Sherman	36.57	34.12	14.63
Shackelford	36.57	34.12	14.63

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

111599

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

T E X A S continued

NONMETROPOLITAN COUNTIES	A	B	C
Scurry	36.57	34.12	14.63
San Saba	36.57	34.12	14.63
San Augustine	36.57	34.12	14.63
Rusk	36.57	34.12	14.63
Robertson	36.57	34.12	14.63
Refugio	36.57	34.12	14.63
Red River	36.57	34.12	14.63
Reagan	36.57	34.12	14.63
Presidio	36.57	34.12	14.63
Pecos	36.57	34.12	14.63
Panola	36.57	34.12	14.63
Oldham	36.57	34.12	14.63
Nolan	36.57	34.12	14.63
Navarro	36.57	34.12	14.63
Motley	36.57	34.12	14.63
Moore	36.57	34.12	14.63
Mitchell	36.57	34.12	14.63
Milam	36.57	34.12	14.63
Medina	36.57	34.12	14.63
Matagorda	36.65	34.21	14.66
Martin	36.57	34.12	14.63
Madison	36.57	34.12	14.63
Mcculloch	36.57	34.12	14.63
Loving	36.57	34.12	14.63
Live Oak	36.57	34.12	14.63
Limestone	36.57	34.12	14.63
Lee	36.57	34.12	14.63
La Salle	36.57	34.12	14.63
Lamb	36.57	34.12	14.63
Knox	36.57	34.12	14.63
Kinney	36.57	34.12	14.63
Kimble	36.57	34.12	14.63
Kent	36.57	34.12	14.63
Kendall	36.57	34.12	14.63
Jones	36.57	34.12	14.63
Jim Hogg	36.57	34.12	14.63
Jasper	36.57	34.12	14.63
Jack	36.57	34.12	14.63
Hutchinson	36.57	34.12	14.63
Howard	36.57	34.12	14.63

NONMETROPOLITAN COUNTIES	A	B	C
Schleicher	36.57	34.12	14.63
San Jacinto	36.57	34.12	14.63
Sabine	36.57	34.12	14.63
Runnels	36.57	34.12	14.63
Roberts	36.57	34.12	14.63
Reeves	36.57	34.12	14.63
Real	36.57	34.12	14.63
Rains	36.57	34.12	14.63
Polk	36.57	34.12	14.63
Parmer	36.57	34.12	14.63
Palo Pinto	36.57	34.12	14.63
Ochiltree	36.57	34.12	14.63
Newton	36.57	34.12	14.63
Nacogdoches	37.16	34.69	14.86
Morris	36.57	34.12	14.63
Montague	36.57	34.12	14.63
Mills	36.57	34.12	14.63
Menard	36.57	34.12	14.63
Maverick	36.57	34.12	14.63
Mason	36.57	34.12	14.63
Marion	36.57	34.12	14.63
Mcmullen	36.57	34.12	14.63
Lynn	36.57	34.12	14.63
Llano	36.57	34.12	14.63
Lipscomb	36.57	34.12	14.63
Leon	36.57	34.12	14.63
Lavaca	36.57	34.12	14.63
Lampasas	36.57	34.12	14.63
Lamar	36.57	34.12	14.63
Kleberg	36.57	34.12	14.63
King	36.57	34.12	14.63
Kerr	36.57	34.12	14.63
Kenedy	36.57	34.12	14.63
Karnes	36.57	34.12	14.63
Jim Wells	36.57	34.12	14.63
Jeff Davis	36.57	34.12	14.63
Jackson	36.57	34.12	14.63
Irion	36.57	34.12	14.63
Hudspeth	36.57	34.12	14.63
Houston	36.57	34.12	14.63

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

T E X A S continued

NONMETROPOLITAN COUNTIES	A	B	C	NONMETROPOLITAN COUNTIES	A	B	C
Hopkins	36.57	34.12	14.63	Hockley	36.57	34.12	14.63
Hill	36.57	34.12	14.63	Hemphill	36.57	34.12	14.63
Haskell	36.57	34.12	14.63	Hartley	36.57	34.12	14.63
Hardeman	36.57	34.12	14.63	Hansford	36.57	34.12	14.63
Hamilton	36.57	34.12	14.63	Hall	36.57	34.12	14.63
Hale	36.57	34.12	14.63	Grimes	36.57	34.12	14.63
Gray	36.57	34.12	14.63	Gonzales	36.57	34.12	14.63
Goliad	36.57	34.12	14.63	Glasscock	36.57	34.12	14.63
Gillespie	36.57	34.12	14.63	Garza	36.57	34.12	14.63
Gaines	36.57	34.12	14.63	Frio	36.57	34.12	14.63
Freestone	36.57	34.12	14.63	Franklin	36.57	34.12	14.63
Foard	36.57	34.12	14.63	Floyd	36.57	34.12	14.63
Fisher	36.57	34.12	14.63	Fayette	36.57	34.12	14.63
Fannin	36.57	34.12	14.63	Falls	36.57	34.12	14.63
Erath	36.57	34.12	14.63	Edwards	36.57	34.12	14.63
Eastland	36.57	34.12	14.63	Duval	36.57	34.12	14.63
Donley	36.57	34.12	14.63	Dimmit	36.57	34.12	14.63
Dickens	36.57	34.12	14.63	Dewitt	36.57	34.12	14.63

U T A H

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Kane County, UT	44.51	41.54	17.81	Kane
Provo-Orem, UT MSA	40.40	37.71	16.16	Utah
Salt Lake City-Ogden, UT MSA	38.31	35.75	15.32	Weber, Salt Lake, Davis

NONMETROPOLITAN COUNTIES	A	B	C	NONMETROPOLITAN COUNTIES	A	B	C
Beaver	45.16	42.15	18.07	Daggett	51.37	47.94	20.55
Carbon	51.37	47.94	20.55	Cache	41.53	38.76	16.61
Box Elder	41.53	38.76	16.61	Wayne	45.16	42.15	18.07
Washington	48.89	45.63	19.55	Wasatch	51.37	47.94	20.55
Uintah	51.37	47.94	20.55	Tooele	41.53	38.76	16.61
Summit	53.17	49.62	21.27	Sevier	45.16	42.15	18.07
Sanpete	45.16	42.15	18.07	San Juan	51.37	47.94	20.55
Rich	41.53	38.76	16.61	Piute	45.16	42.15	18.07
Morgan	51.37	47.94	20.55	Millard	45.16	42.15	18.07
Juab	45.16	42.15	18.07	Iron	45.16	42.15	18.07
Grand	51.37	47.94	20.55	Garfield	45.16	42.15	18.07
Emery	51.37	47.94	20.55	Duchesne	51.37	47.94	20.55

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

V E R M O N T

METROPOLITAN FMR AREAS	A	B	C	Components of FMR AREA within STATE
Burlington, VT MSA	56.59	52.81	22.63	Chittenden county towns of Burlington city Charlotte town, Colchester town, Essex town Hinesburg town, Jericho town, Milton town, Richmond town St. George town, Shelburne town, South Burlington c Williston town, Winooski city Grand Isle county towns of Grand Isle town South Hero town Franklin county towns of Fairfax town, Georgia town St. Albans city, St. Albans town, Swanton town

NONMETROPOLITAN COUNTIES	A	B	C	Towns within non metropolitan counties
Bennington	47.25	44.10	18.90	
Addison	45.66	42.62	18.26	
Orleans	38.79	36.20	15.52	
Orange	46.50	43.39	18.60	
Lamoille	46.91	43.78	18.77	
Grand Isle	38.79	36.20	15.52	Alburg town, Isle La Motte town, North Hero town
Franklin	43.48	40.58	17.39	Bakersfield town, Berkshire town, Enosburg town Fairfield town, Fletcher town, Franklin town Highgate town, Montgomery town, Richford town Sheldon town
Essex	38.79	36.20	15.52	
Chittenden	52.86	49.33	21.14	Bolton town, Buels gore, Huntington town, Underhill town Westford town
Caledonia	38.79	36.20	15.52	
Windsor	49.93	46.60	19.97	
Windham	48.75	45.51	19.50	
Washington	46.75	43.63	18.70	
Rutland	50.43	47.07	20.17	

V I R G I N I A

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Charlottesville, VA MSA	47.40	44.25	18.96	Charlottesville CiTY, Greene, Fluvanna, Albemarle
Clarke County, VA	37.81	35.30	15.13	Clarke
Corvallis, OR MSA	42.67	39.82	17.07	Culpeper
Danville, VA MSA	36.37	33.94	14.55	Danville City, Pittsylvania
Johnson City-Kingsport-Bristol, TN-VA MSA	38.65	36.07	15.46	Bristol City, Washington, Scott
King George County, VA	44.10	41.16	17.64	King George
Lynchburg, VA MSA	37.73	35.22	15.09	Lynchburg City, Bedford City, Campbell, Bedford, Amherst
Norfolk-Virginia Beach-Newport News, VA-NC MSA	46.74	43.62	18.69	Gloucester, James City, Isle Of Wight, Portsmouth City Poquoson City, Norfolk City, Newport News City Hampton City, Chesapeake City, York, Mathews

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

111599

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

V I R G I N I A continued

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Richmond-Petersburg, VA MSA	42.39	39.56	16.96	Williamsburg City, Virginia Beach CitY, Suffolk City Charles City, Hanover, Goochland, Dinwiddie, Chesterfield Richmond City, Petersburg City, Hopewell City Colonial Heights CITY, Prince George, Powhatan, New Kent Henrico
Roanoke, VA MSA	37.31	34.82	14.92	Salem City, Roanoke City, Roanoke, Botetourt
Warren County, VA	37.81	35.30	15.13	Warren
Washington, DC-MD-VA	68.91	64.32	27.57	Arlington, Loudoun, Fairfax, Fredericksburg CitY Fauquier, Falls Church City, Fairfax City Alexandria City, Stafford, Spotsylvania, Prince William Manassas Park City, Manassas City

NONMETROPOLITAN COUNTIES	A	B	C	NONMETROPOLITAN COUNTIES	A	B	C
Alleghany	36.17	33.54	14.38	Accomack	36.09	33.46	14.34
Bath	36.17	33.54	14.38	Augusta	36.17	33.54	14.38
Appomattox	36.09	33.46	14.34	Amelia	36.09	33.46	14.34
Craig	36.09	33.46	14.34	Charlotte	36.09	33.46	14.34
Carroll	36.09	33.46	14.34	Caroline	43.76	40.58	17.39
Buckingham	36.09	33.46	14.34	Buchanan	36.09	33.46	14.34
Brunswick	36.09	33.46	14.34	Bland	36.09	33.46	14.34
Lee	36.09	33.46	14.34	Lancaster	36.09	33.46	14.34
King William	36.09	33.46	14.34	King And Queen	36.09	33.46	14.34
Highland	36.17	33.54	14.38	Henry	36.25	33.62	14.41
Halifax	36.09	33.46	14.34	Greensville	36.09	33.46	14.34
Grayson	36.09	33.46	14.34	Giles	36.09	33.46	14.34
Frederick	37.51	34.80	14.91	Franklin	36.09	33.46	14.34
Floyd	36.09	33.46	14.34	Essex	36.09	33.46	14.34
Dickenson	36.09	33.46	14.34	Cumberland	36.09	33.46	14.34
Wythe	36.09	33.46	14.34	Wise	36.09	33.46	14.34
Westmoreland	36.09	33.46	14.34	Tazewell	36.09	33.46	14.34
Sussex	36.09	33.46	14.34	Surry	36.09	33.46	14.34
Southampton	36.09	33.46	14.34	Smyth	36.09	33.46	14.34
Shenandoah	37.51	34.80	14.91	Russell	36.09	33.46	14.34
Rockingham	37.43	34.72	14.88	Rockbridge	36.17	33.54	14.38
Richmond	36.09	33.46	14.34	Rappahannock	39.09	36.25	15.54
Pulaski	36.09	33.46	14.34	Prince Edward	36.09	33.46	14.34
Patrick	36.09	33.46	14.34	Page	36.25	33.62	14.41
Orange	39.09	36.25	15.54	Nottoway	36.09	33.46	14.34
Northumberland	36.09	33.46	14.34	Northampton	36.09	33.46	14.34
Nelson	36.09	33.46	14.34	Montgomery	43.84	40.66	17.43
Middlesex	36.09	33.46	14.34	Mecklenburg	36.09	33.46	14.34

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

111599

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

V I R G I N I A continued

NONMETROPOLITAN COUNTIES	A	B	C
Madison	38.36	35.57	15.25
Louisa	37.77	35.03	15.01
Lunenburg	36.09	33.46	14.34

W A S H I N G T O N

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Bellingham, WA MSA	53.02	49.48	21.21	Whatcom
Bremerton, WA PMSA	49.33	46.05	19.73	Kitsap
Olympia, WA PMSA	50.96	47.56	20.38	Thurston
Portland-Vancouver, OR-WA PMSA	48.68	45.44	19.47	Clark
Richland-Kennewick-Pasco, WA MSA	43.09	40.21	17.23	Benton, Franklin
Seattle-Bellevue-Everett, WA PMSA	55.85	52.12	22.34	Island, Snohomish, King
Spokane, WA MSA	42.91	40.05	17.16	Spokane
Tacoma, WA PMSA	47.43	44.27	18.97	Pierce
Yakima, WA MSA	44.80	41.81	17.92	Yakima

NONMETROPOLITAN COUNTIES	A	B	C	NONMETROPOLITAN COUNTIES	A	B	C
Adams	36.77	34.30	14.70	Chelan	44.24	41.28	17.69
Asotin	47.42	44.24	18.96	Douglas	44.24	41.28	17.69
Cowlitz	38.15	35.59	15.25	Columbia	47.42	44.24	18.96
Clallam	47.68	44.48	19.06	Skamania	44.24	41.28	17.69
Skagit	48.62	45.36	19.44	San Juan	50.33	46.95	20.12
Pend Oreille	36.77	34.30	14.70	Pacific	47.68	44.48	19.06
Okanogan	40.29	37.60	16.11	Mason	47.68	44.48	19.06
Lincoln	36.77	34.30	14.70	Lewis	44.24	41.28	17.69
Klickitat	44.24	41.28	17.69	Kittitas	40.29	37.60	16.11
Jefferson	47.68	44.48	19.06	Grays Harbor	47.68	44.48	19.06
Grant	36.77	34.30	14.70	Garfield	47.42	44.24	18.96
Ferry	36.77	34.30	14.70	Whitman	47.42	44.24	18.96
Walla Walla	47.42	44.24	18.96	Wahkiakum	44.24	41.28	17.69
Stevens	36.77	34.30	14.70				

W E S T V I R G I N I A

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Berkeley County, WV	37.98	35.44	15.19	Berkeley
Charleston, WV MSA	45.58	42.54	18.23	Kanawha, Putnam
Cumberland, MD-WV MSA	35.23	32.24	13.82	Mineral
Huntington-Ashland, WV-KY-OH MSA	37.57	35.06	15.03	Wayne, Cabell
Jefferson County, WV	38.13	35.58	15.25	Jefferson

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

W E S T V I R G I N I A continued

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Parkersburg-Marietta, WV-OH MSA	34.96	32.63	13.98	Wood
Steubenville-Weirton, OH-WV MSA	39.03	36.42	15.61	Hancock, Brooke
Wheeling, WV-OH MSA	38.58	36.01	15.43	Ohio, Marshall

NONMETROPOLITAN COUNTIES	A	B	C	NONMETROPOLITAN COUNTIES	A	B	C
Lincoln	37.72	35.20	15.09	Lewis	37.72	35.20	15.09
Jackson	38.51	35.94	15.40	Harrison	38.51	35.94	15.40
Hardy	37.72	35.20	15.09	Hampshire	37.72	35.20	15.09
Greenbrier	37.72	35.20	15.09	Grant	37.72	35.20	15.09
Gilmer	38.07	35.53	15.23	Fayette	37.72	35.20	15.09
Doddridge	37.72	35.20	15.09	Clay	37.72	35.20	15.09
Calhoun	38.51	35.94	15.40	Braxton	37.72	35.20	15.09
Boone	37.72	35.20	15.09	Barbour	37.72	35.20	15.09
Wyoming	37.72	35.20	15.09	Wirt	37.72	35.20	15.09
Wetzel	37.72	35.20	15.09	Webster	37.72	35.20	15.09
Upshur	37.72	35.20	15.09	Tyler	37.72	35.20	15.09
Tucker	37.72	35.20	15.09	Taylor	37.72	35.20	15.09
Summers	37.72	35.20	15.09	Roane	38.51	35.94	15.40
Ritchie	37.72	35.20	15.09	Randolph	37.72	35.20	15.09
Raleigh	37.72	35.20	15.09	Preston	41.42	38.65	16.57
Pocahontas	37.72	35.20	15.09	Pleasants	37.72	35.20	15.09
Pendleton	37.72	35.20	15.09	Nicholas	37.72	35.20	15.09
Morgan	37.72	35.20	15.09	Monroe	37.72	35.20	15.09
Monongalia	41.42	38.65	16.57	Mingo	37.72	35.20	15.09
Mercer	37.72	35.20	15.09	Mason	37.72	35.20	15.09
Marion	41.42	38.65	16.57	Mcdowell	37.72	35.20	15.09
Logan	37.72	35.20	15.09				

W I S C O N S I N

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Appleton-Oshkosh-Neenah, WI MSA	38.63	36.06	15.45	Calumet, Winnebago, Outagamie
Duluth-Superior, MN-WI MSA	39.39	36.76	15.75	Douglas
Eau Claire, WI MSA	37.07	34.60	14.83	Chippewa, Eau Claire
Green Bay, WI MSA	38.45	35.89	15.38	Brown
Janesville-Beloit, WI MSA	42.57	39.73	17.03	Rock
Kenosha, WI PMSA	47.44	44.27	18.97	Kenosha
La Crosse, WI-MN MSA	43.90	40.96	17.56	La Crosse
Madison, WI MSA	51.06	47.66	20.42	Dane

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

111599

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

W I S C O N S I N continued

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Milwaukee-Waukesha, WI PMSA	45.88	42.81	18.35	Ozaukee, Milwaukee, Waukesha, Washington
Minneapolis-St. Paul, MN-WI MSA	53.25	49.70	21.30	St. Croix, Pierce
Racine, WI PMSA	41.90	39.11	16.76	Racine
Sheboygan, WI MSA	38.02	35.49	15.21	Sheboygan
Wausau, WI MSA	37.75	35.24	15.10	Marathon

NONMETROPOLITAN COUNTIES	A	B	C
Adams	38.46	35.90	15.39
Grant	37.85	35.32	15.14
Fond Du Lac	39.70	37.06	15.88
Dunn	37.85	35.32	15.14
Dodge	37.85	35.32	15.14
Columbia	37.85	35.32	15.14
Burnett	37.85	35.32	15.14
Bayfield	37.85	35.32	15.14
Ashland	37.85	35.32	15.14
Waushara	37.85	35.32	15.14
Washburn	37.85	35.32	15.14
Vilas	37.85	35.32	15.14
Trempealeau	37.85	35.32	15.14
Shawano	37.85	35.32	15.14
Sauk	38.46	35.90	15.39
Richland	37.85	35.32	15.14
Portage	38.55	35.98	15.42
Pepin	37.85	35.32	15.14
Oconto	37.85	35.32	15.14
Menominee	37.85	35.32	15.14
Marinette	37.85	35.32	15.14
Lincoln	37.85	35.32	15.14
Lafayette	37.85	35.32	15.14
Juneau	38.46	35.90	15.39
Jackson	37.85	35.32	15.14
Iowa	37.85	35.32	15.14

NONMETROPOLITAN COUNTIES	A	B	C
Green	37.85	35.32	15.14
Forest	37.85	35.32	15.14
Florence	37.85	35.32	15.14
Door	37.85	35.32	15.14
Crawford	37.85	35.32	15.14
Clark	37.85	35.32	15.14
Buffalo	37.85	35.32	15.14
Barron	37.85	35.32	15.14
Wood	38.46	35.90	15.39
Waupaca	37.85	35.32	15.14
Walworth	41.55	38.78	16.62
Vernon	37.85	35.32	15.14
Taylor	37.85	35.32	15.14
Sawyer	37.85	35.32	15.14
Rusk	37.85	35.32	15.14
Price	37.85	35.32	15.14
Polk	37.85	35.32	15.14
Oneida	37.85	35.32	15.14
Monroe	37.85	35.32	15.14
Marquette	37.85	35.32	15.14
Manitowoc	37.85	35.32	15.14
Langlade	37.85	35.32	15.14
Kewaunee	37.85	35.32	15.14
Jefferson	40.15	37.47	16.06
Iron	37.85	35.32	15.14
Green Lake	37.94	35.41	15.17

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

W Y O M I N G

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Casper, WY MSA	50.73	46.74	20.03	Natrona
Cheyenne, WY MSA	42.10	38.79	16.62	Laramie

NONMETROPOLITAN COUNTIES	A	B	C	NONMETROPOLITAN COUNTIES	A	B	C
Albany	36.14	33.73	14.46	Campbell	35.51	33.13	14.20
Big Horn	35.51	33.13	14.20	Lincoln	35.51	33.13	14.20
Johnson	35.51	33.13	14.20	Hot Springs	35.51	33.13	14.20
Goshen	35.51	33.13	14.20	Fremont	35.51	33.13	14.20
Crook	35.51	33.13	14.20	Converse	35.51	33.13	14.20
Carbon	35.51	33.13	14.20	Weston	35.51	33.13	14.20
Washakie	35.51	33.13	14.20	Uinta	35.51	33.13	14.20
Teton	52.93	49.39	21.17	Sweetwater	35.51	33.13	14.20
Sublette	35.51	33.13	14.20	Sheridan	48.03	44.82	19.21
Platte	35.51	33.13	14.20	Park	35.51	33.13	14.20
Niobrara	35.51	33.13	14.20				

P A C I F I C I S L A N D S

NONMETROPOLITAN COUNTIES	A	B	C	NONMETROPOLITAN COUNTIES	A	B	C
Pacific Islands	70.25	65.57	28.10				

P U E R T O R I C O

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
Aguadilla, PR MSA	39.84	37.18	15.94	Aguada Municipio, Moca Municipio, Aguadilla MunicipiO
Arecibo, PR PMSA	43.75	40.83	17.50	Camuy Municipio, Arecibo Municipio, Hatillo Municipio
Caguas, PR PMSA	39.84	37.18	15.94	Caguas Municipio, Cidra Municipio, Cayey Municipio San Lorenzo MunicipIO, Gurabo Municipio
Mayaguez, PR MSA	39.84	37.18	15.94	Cabo Rojo MunicipiO, Anasco Municipio San German MunicipIO, Sabana Grande MuniCIPIO Mayaguez Municipio, Hormigueros MuniciPIO
Ponce, PR MSA	42.81	39.96	17.13	Ponce Municipio, Penuelas Municipio, Juana Diaz MunicipIO Guayanilla MunicipIO, Yauco Municipio, Villalba Municipio
San Juan-Bayamon, PR PMSA	42.81	39.96	17.13	Barceloneta MuniciPIO, Aguas Buenas MuniCIPIO Catano Municipio, Carolina Municipio, Canovanas MunicipiO Bayamon Municipio, Humacao Municipio, Guaynabo Municipio Florida Municipio, Fajardo Municipio, Dorado Municipio Corozal Municipio, Comerio Municipio, Ceiba Municipio Yabucoa Municipio, Vega Baja MunicipiO Vega Alta MunicipiO, Trujillo Alto MuniCIPIO Toa Baja Municipio, Toa Alta Municipio San Juan Municipio, Rio Grande MunicipIO

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

111599

ADMINISTRATIVE FEES DOLLAR AMOUNT PER UNIT MONTH

P U E R T O R I C O continued

METROPOLITAN FMR AREAS	A	B	C	Counties of FMR AREA within STATE
				Naranjito Municipio, Naguabo Municipio, Morovis Municipio Manati Municipio, Luquillo Municipio, Loiza Municipio Las Piedras Municipio, Juncos Municipio

NONMETROPOLITAN COUNTIES	A	B	C	NONMETROPOLITAN COUNTIES	A	B	C
Maunabo Municipio.....	39.84	37.18	15.94	Maricao Municipio.....	39.84	37.18	15.94
Las Marias Municipio....	39.84	37.18	15.94	Lares Municipio.....	39.84	37.18	15.94
Lajas Municipio.....	39.84	37.18	15.94	Jayuya Municipio.....	39.84	37.18	15.94
Isabela Municipio.....	39.84	37.18	15.94	Guayama Municipio.....	39.84	37.18	15.94
Guanica Municipio.....	39.84	37.18	15.94	Culebra Municipio.....	39.84	37.18	15.94
Coamo Municipio.....	39.84	37.18	15.94	Ciales Municipio.....	39.84	37.18	15.94
Barranquitas Municipio..	39.84	37.18	15.94	Arroyo Municipio.....	39.84	37.18	15.94
Aibonito Municipio.....	39.84	37.18	15.94	Adjuntas Municipio.....	39.84	37.18	15.94
Vieques Municipio.....	39.84	37.18	15.94	Utuado Municipio.....	39.84	37.18	15.94
Santa Isabel Municipio..	39.84	37.18	15.94	San Sebastian Municipio.	39.84	37.18	15.94
Salinas Municipio.....	39.84	37.18	15.94	Rincon Municipio.....	39.84	37.18	15.94
Quebradillas Municipio..	43.75	40.83	17.50	Patillas Municipio.....	39.84	37.18	15.94
Orocovis Municipio.....	39.84	37.18	15.94				

V I R G I N I S L A N D S

NONMETROPOLITAN COUNTIES	A	B	C	NONMETROPOLITAN COUNTIES	A	B	C
Virgin Islands.....	55.49	51.80	22.20				

Note: A = First 600 units; B = Remainder of units; c = PHA owned units.

111599

[FR Doc. 00-4311 Filed 2-24-00; 8:45 am]
BILLING CODE 4210-33-C

Reader Aids

Federal Register

Vol. 65, No. 38

Friday, February 25, 2000

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids — **202–523–5227**

Laws — **523–5227**

Presidential Documents

Executive orders and proclamations — **523–5227**

The United States Government Manual — **523–5227**

Other Services

Electronic and on-line services (voice) — **523–4534**

Privacy Act Compilation — **523–3187**

Public Laws Update Service (numbers, dates, etc.) — **523–6641**

TTY for the deaf-and-hard-of-hearing — **523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications:

http://www.access.gpo.gov/nara

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access:

http://www.nara.gov/fedreg

E-mail

PENS (Public Law Electronic Notification Service) is an E-mail service for notification of recently enacted Public Laws. To subscribe, send E-mail to

listserv@www.gsa.gov

with the text message:

subscribe PUBLAWS-L your name

Use listserv@www.gsa.gov only to subscribe or unsubscribe to PENS. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to:

info@fedreg.nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, FEBRUARY

4753–4864 1
4865–5218 2
5219–5406 3
5407–5732 4
5733–5992 7
5993–6304 8
6305–6522 9
6523–6880 10
6881–7274 11
7275–7426 14
7427–7708 15
7709–8012 16
8013–8242 17
8243–8630 18
8631–8840 22
8841–9198 23
9199–9994 24
9995–10372 25

CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

8 8841
10 8841
11 8841

3 CFR

Proclamations:
4771 (See Proc. 7275) 9199
7270 5217
7271 5219
7272 7709
7273 8621
7274 9193
7275 9199
Executive Orders:
13145 6877
Administrative Orders:
Directive of January 31, 2000 5729
Directive of January 31, 2000 5731
Presidential Determinations:
No. 2000–10 of January 31, 2000 5407
No. 2000–11 of February 1, 2000 6523
No. 2000–12 of February 10, 2000 8243
Memorandums:
January 27, 2000 8631
February 16, 2000 8629
February 18, 2000 9197

5 CFR

581 4753
582 4753
1201 5409
1208 5410
2638 7275
Proposed Rules:
630 6339

7 CFR

1 5414
301 ..... 4865, 5221, 6525, 8633
505 6526
718 ..... 7942, 8245
723 7942
729 8245
905 5733
916 6305
917 6305
944 5733
955 5736
959 7711
966 8247
981 4867
985 ..... 6308, 6528
1218 7652
1230 7281
1400 7942
1412 7942
1421 7942
1427 7942
1430 7942
1434 7942
1435 7942
1439 7942
1446 8245
1447 7942
1464 7942
1469 7942
1478 7942
1484 9995
1550 9995
3418 5993
Proposed Rules:
46 7462
47 7462
54 4780
245 5791
457 6033
718 5444
928 8313
985 8069
989 6341
1218 7657
1735 6922

8 CFR

214 7715

9 CFR

Ch. III 6881
1 6312
77 5998
91 8013
145 8014
147 8014
381 6886
Proposed Rules:
2 8318
3 8318
94 6040

10 CFR

72 8234
708 ..... 6314, 9201
Proposed Rules:
Ch. I 8072
50 6044
430 8074

11 CFR

2 9201
4 9201
5 9201

12 CFR

Ch. IX 8253
201 6531
220 9207
272 6319
611 8023

620.....8023
702.....8560
741.....8560
747.....8560
936.....5738
960.....5418

Proposed Rules:
Ch. I.....4895
40.....8770
216.....8770
225.....6924
332.....8770
573.....8770
611.....5286
650.....9223
702.....8597
951.....5447
997.....5447
1735.....7312

13 CFR

400.....6888
500.....6888

14 CFR

23.....7283
25.....9996
39.....4754, 4755, 4757, 4760, 4761, 4870, 5222, 5228, 5229, 5235, 5238, 5241, 5243, 5419, 5421, 5422, 5425, 5427, 5428, 5739, 5741, 5743, 5745, 5746, 5749, 5752, 5754, 5757, 5759, 5761, 6444, 6533, 6534, 7427, 7428, 7716, 7717, 7719, 7720, 8024, 8025, 8027, 8028, 8030, 8031, 8032, 8034, 8037, 8039, 8640, 8642, 8645, 8649, 8651, 8653, 8844, 8845, 8848, 9209, 9211, 9212, 9214, 9215, 9217
71 .....4871, 4872, 4873, 4874, 5762, 5763, 5764, 5765, 5767, 5768, 5769, 5770, 5999, 6000, 6320, 6535, 7287, 7722, 8043, 8044, 8045, 8046, 8047, 8269, 8270, 8271, 8655, 8656, 8849, 9998
73.....9999
91.....5396, 5936
93.....5396
97 .....4875, 4877, 4879, 6321, 6324, 10000, 10001, 10004
121.....5396
135.....5396
200.....6446
211.....6446
213.....6446
216.....6446
291.....6446
300.....6446
302.....6446, 7418
303.....6446
305.....6446
377.....6446
385.....6446
399.....6446

Proposed Rules:
21.....5224, 8006
25.....5024, 8006
39.....4781, 4782, 4784, 4786, 4788, 4790, 4792, 4793, 4897, 4900, 4902, 4904, 4906, 5453, 5455, 5456, 5459, 6046, 6563, 6565, 6566, 6925, 6927, 7316, 7465, 7789, 7794, 7796, 7801, 8075, 8667, 8892, 8894, 9221, 9223, 9225
71 .....4910, 4911, 5804, 7320, 8321, 8322, 8324, 8325, 8326, 8896, 9227
91.....5024, 8006
108.....4912
109.....4912
111.....4912
121.....4912, 8006
125.....5024, 8006
129.....4912, 8006
191.....4912

15 CFR

303.....8048

17 CFR

1.....6569
232.....6444

Proposed Rules:
230.....8896
240.....8896

18 CFR

154.....10156
161.....10156
250.....10156
284.....10156

Proposed Rules:
157.....7803
270.....6048
284.....10227
375.....6048
381.....6048
382.....5289

19 CFR

132.....5430
151.....10007
163.....5430

Proposed Rules:
12.....6062
113.....6062

20 CFR

Proposed Rules:
404.....6929
416.....6929

21 CFR

175.....6889, 8272
176.....7272
522.....6892
801.....10012
876.....4881
886.....6893
1308.....5024

Proposed Rules:
10.....7321
11.....8669
14.....7321
19.....7321
25.....7321
101.....7806, 9230
1310.....4913

23 CFR

Proposed Rules:
645.....6344

24 CFR

25.....9084
30.....9084
206.....5406

Proposed Rules:
990.....7330

25 CFR

170.....7431

26 CFR

1 .....5432, 5772, 5775, 5777, 6001, 9220
35.....6001, 8234
49.....10153
602 .....5775, 5777, 6001, 9220

Proposed Rules:
1 .....5805, 5807, 6065, 6090, 7807, 10153
602.....5807

27 CFR

Proposed Rules:
9.....5828

28 CFR

92.....7723

Proposed Rules:
16.....8916

29 CFR

44.....7194
2200.....7434
2520.....7152
2560.....7181
2570.....7185
4044.....7435

Proposed Rules:
1910.....4795
1926.....10042

30 CFR

250.....6536
938.....4882
946.....5782

Proposed Rules:
250.....9232
870.....7706
913.....7331
917.....8327

32 CFR

220.....7724
310.....7732
505.....6894

33 CFR

100.....8049
117 .....5785, 6325, 6326, 7436
165.....8049, 9220

Proposed Rules:
100.....5833
110.....5833, 7333
140.....8671
141.....8671
142.....8671
143.....8671
144.....8671
145.....8671
146.....8671
147.....8671
165.....5833, 7333
167.....8917
174.....7926
187.....7926

34 CFR

75.....8850
637.....7674
676.....4886

Proposed Rules:
611.....6936
694.....5844

36 CFR

327.....6896

Proposed Rules:
Ch. XV.....8010
217.....5462
219.....5462
242.....5196, 8673
1234.....5295
1251.....10042
1260.....8077

37 CFR

Proposed Rules:
201.....6573, 6946

38 CFR

8.....7436
21.....5785

Proposed Rules:
3.....7807, 8329
8.....7467
20.....7468
21.....4914

39 CFR

111 .....4864, 5789, 6903, 7288
3001.....6536, 10012

Proposed Rules:
111.....4918, 6950

40 CFR

51.....8656
52 .....4887, 5245, 5252, 5259, 5262, 5264, 5433, 6327, 7290, 7437, 8051, 8053, 8057, 8060, 8064, 8851, 9221
59.....7736
62 .....6008, 8854, 8857, 10022
63.....8768
70.....7290
80.....6698
82.....10025
85.....6698
86.....6698, 8275
180 .....7737, 7744, 8859, 8867, 8872, 10025
258.....7294
261.....8874
300.....5435
761.....5442

Proposed Rules:
52 .....5296, 5297, 5298, 5462, 5463, 6091, 7470, 8081, 8082, 8092, 8094, 8097, 8103, 8676, 8679, 8923
62 .....6102, 8924, 10043
70.....7333
130.....4919
152.....8925
156.....8925
165.....9234
268.....7809
300.....5465, 5844
445.....6950

41 CFR

Ch. 102.....10027
102-2.....10027
302.....8657

Proposed Rules:
101–41.....8818
102–118.....8818

42 CFR

412.....5933
413.....5933, 8660
483.....5933
485.....5933

Proposed Rules:
36.....4797

43 CFR

11.....6012

Proposed Rules:
2560.....6259

44 CFR

64.....8662, 8664
65 .....6014, 6018, 6023, 6025, 7440
67 .....6028, 6031, 7443
209.....7270

Proposed Rules:
67 .....6103, 6105, 7471
206.....8927

45 CFR

286.....8478
287.....8478
1000.....10027
1303.....4764

Proposed Rules:
96.....5471

46 CFR

2.....6494
30.....6494
31.....6494
52.....6494
61.....6494
71.....6494
90.....6494
91.....6494
98.....6494
107.....6494
110.....6494
114.....6494
115.....6494
125.....6494
126.....6494
132.....6494
133.....6494
134.....6494
167.....6494
169.....6494
175.....6494
176.....6494
188.....6494
189.....6494
195.....6494
199.....6494
388.....6905

Proposed Rules:
15.....6350
110.....6111
111.....6111
515.....7335

47 CFR

Ch. I.....5267
0.....7448
1.....4891, 7460
11.....7616
51 .....6912, 7744, 8280
64.....8666
73 .....6544, 7448, 7616, 7747, 7748, 7749, 8880, 10030
74.....7616
76.....7448
90.....7749
97.....6548

Proposed Rules:
1.....6113
25.....6950
73 .....4798, 4799, 4923, 7815, 7816, 7817, 8679, 8931, 10043, 10044
76.....4927, 7481
95.....4935

48 CFR

Ch. 2.....6554
201.....6551
203.....4864
209.....4864
211.....6553
212.....6553
219.....6554
225 .....4864, 6551, 6553
249.....4864
252.....6553
1806.....10031
1825.....6915, 10031
1852.....6915, 10031
1853.....10031
2432.....6444
9903.....5990

Proposed Rules:
30.....4940
215.....6574
252.....6574

49 CFR

107.....7297
172.....7310
195.....4770
386.....7753
571.....6327
1002.....8280
1011.....8280
1182.....8280

Proposed Rules:
222.....7483
229.....7483
567.....5847
568.....5847

50 CFR

13.....6916
17 .....4770, 52680, 6332, 6916, 7757, 8881, 10033
18.....52750
226.....7764
622.....8067, 10039
648.....7460
679 .....4891, 4892, 4893, 5278, 5283, 5284, 5285, 5442, 6561, 6921, 7461, 7787, 8067, 8281, 8282, 8297, 8298, 8890

Proposed Rules:
17 .....4940, 5298, 5474, 5848, 5946, 6114, 6952, 7339, 7483, 7817, 8104
100.....5196, 8673
223 .....6960, 7346, 7819
622.....5299, 8107
648 .....4941, 5486, 6575, 6975, 7820
660 .....6351, 6577, 6976, 7820, 8107

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT FEBRUARY 25, 2000

AGRICULTURE DEPARTMENT

Commodity Credit Corporation

Loan and purchase programs:
- Foreign markets for agricultural commodities; development programs (Foreign Market Development Cooperator Program); published 2-25-00

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):
- Award fee determinations; review; published 12-27-99
- Deobligation authority; published 12-27-99
- Financial Management System Software Program; transition; published 12-27-99
- Foreign acquisition; policies and procedures; published 12-27-99
- Nondisplacement of qualified workers; published 12-27-99
- Pollution control and clean air and water; published 12-27-99

DEFENSE DEPARTMENT

Engineers Corps

Navigation regulations:
- Bonneville Lock and Dam, OR, et al.; restricted area boundary adjustments; published 1-26-00

ENVIRONMENTAL PROTECTION AGENCY

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
- Emamectin benzoate; correction; published 2-25-00

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:
- Various States; published 2-25-00

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):
- Award fee determinations; review; published 12-27-99
- Deobligation authority; published 12-27-99
- Financial Management System Software Program; transition; published 12-27-99
- Foreign acquisition; policies and procedures; published 12-27-99
- Foreign acquisition; policies and procedures; correction; published 1-31-00
- Nondisplacement of qualified workers; published 12-27-99
- Pollution control and clean air and water; published 12-27-99

HEALTH AND HUMAN SERVICES DEPARTMENT

Children and Families Administration

Assets for Independence Demonstration Program; individual development accounts for low income individuals and families; published 2-25-00

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:
- Baker's and yellow larkspurs; coastal northern California; published 1-26-00
- Critical habitat designations—
  - Woundfin and Virgin River Chub; published 1-26-00
- Newcomb's snail; Hawaiian Islands; published 1-26-00

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Acquisition regulations:
- Foreign acquisition; procedures; published 2-25-00

Federal Acquisition Regulation (FAR):
- Award fee determinations; review; published 12-27-99
- Deobligation authority; published 12-27-99
- Financial Management System Software Program; transition; published 12-27-99
- Foreign acquisition; policies and procedures; published 12-27-99
- Foreign acquisition; policies and procedures; correction; published 1-31-00
- Nondisplacement of qualified workers; published 12-27-99
- Pollution control and clean air and water; published 12-27-99

POSTAL RATE COMMISSION

Practice and procedure:
- Cost, revenue and volume data generated by international mail services; analysis; published 2-25-00

TREASURY DEPARTMENT

Customs Service

Commercial testing laboratories accreditation; commercial gaugers approval, etc:
- Correction; published 2-25-00¶

RULES GOING INTO EFFECT FEBRUARY 26, 2000

POSTAL SERVICE

Domestic Mail Manual:
- Periodicals mail; experimental ride-along rate; published 2-14-00

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Exportation and importation of animals and animal products:
- African swine fever; disease status change—
  - Portugal; comments due by 2-28-00; published 12-29-99

AGRICULTURE DEPARTMENT

Grain Inspection, Packers and Stockyards Administration

Fees:
- Official inspection and weighing services; comments due by 3-3-00; published 1-3-00

Grain inspection:
- Rice; fees increase; comments due by 3-3-00; published 1-3-00

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Endangered and threatened species:
- Salmonids; take prohibitions; comments due by 3-3-00; published 1-3-00
- West Coast salmonids; evolutionarily significant units; comments due by 3-3-00; published 1-3-00

Fishery conservation and management:
- Alaska; fisheries of Exclusive Economic Zone—
  - American Fisheries Act; emergency implementation; comments due by 2-28-00; published 1-28-00
- Caribbean, Gulf, and South Atlantic fisheries—
  - South Atlantic Fishery Management Council; hearings; comments due by 3-1-00; published 2-3-00
- Northeastern United States fisheries—
  - Atlantic sea scallop; comments due by 3-1-00; published 2-4-00
  - Dealer and vessel reporting requirements; comments due by 3-2-00; published 2-16-00
  - Summer flounder, scup, and Black Sea bass; comments due by 2-28-00; published 1-28-00
- West Coast States and Western Pacific fisheries—
  - Western Pacific pelagic; comments due by 3-3-00; published 2-17-00

DEFENSE DEPARTMENT

Air Force Department

Sales and services:
- Release, dissemination, and sale of visual information materials; comments due by 2-28-00; published 12-28-99

ENERGY DEPARTMENT

Nuclear waste repositories:
- Yucca Mountain Site, NV; suitability guidelines; hearings; comments due by 2-29-00; published 1-14-00

ENERGY DEPARTMENT

Energy Efficiency and Renewable Energy Office

Consumer products; energy conservation program:
- Central air conditioners and central airconditioning heat pumps—
  - Energy conservation standards; comments due by 2-28-00; published 2-17-00

Energy conservation:

Commercial and industrial equipment, energy efficiency program—
Warm air furnaces and heating, air conditioning, and water heating equipment; test procedures and efficiency standards, etc.; comments due by 2-28-00; published 12-13-99

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
Idaho; comments due by 2-28-00; published 1-27-00
Water programs:
Water quality planning—
Management regulation listing requirements; comments due by 3-3-00; published 2-2-00

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:
Commercial mobile radio services—
Wireless services campatibility with enhanced 911 services; reconsideration petitions; comments due by 2-28-00; published 12-29-99
Rulemaking proceedings; petitions filed, granted, denied, etc.; correction; comments due by 2-29-00; published 2-14-00

FEDERAL HOUSING FINANCE BOARD

Federal home loan bank system:
Boards of directors and senior management; powers and responsibilities; comments due by 3-3-00; published 1-3-00

FEDERAL MARITIME COMMISSION

Ocean transportation intermediaries; individual contemporaneously acting as qualifying individual for ocean freight forwarder and non-vessel common carrier; comments due by 2-28-00; published 2-14-00

FEDERAL RESERVE SYSTEM

Equal credit opportunity, electronic fund transfers, consumer leasing, truth in lending, and truth in savings (Regulations, B, E, M, Z, and DD)
Disclosure requirements; delivery by electronic communication; comments due by 3-3-00; published 12-15-99

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Administrative practice and procedure:
Citizen petitions; miscellaneous amendments; comments due by 2-28-00; published 11-30-99

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:
San Diego ambrosia; comments due by 2-28-00; published 12-29-99

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:
Illinois; comments due by 2-29-00; published 2-14-00

LABOR DEPARTMENT

Mine Safety and Health Administration

Coal mine safety and health:
Flame-resistant conveyor belts; comments due by 2-28-00; published 12-28-99
Underground coal mines—
Electric motor-driven mine equipment and accessories and high-voltage longwall equipment; comments due by 2-28-00; published 12-28-99

LABOR DEPARTMENT

Occupational Safety and Health Administration

Occupational safety and health standards:
Ergonomics program; comments due by 3-2-00; published 2-1-00

PERSONNEL MANAGEMENT OFFICE

Group life insurance; Federal employees:
Life insurance improvements; comments due by 2-28-00; published 12-28-99
Pay administration:
Back pay, holidays, and physicians' comparability allowances; comments due by 2-28-00; published 12-28-99

POSTAL SERVICE

Domestic Mail Manual:
Commercial mail receiving agency; mail delivery; comments due by 3-3-00; published 2-2-00

TRANSPORTATION DEPARTMENT

Coast Guard

Regattas and marine parades, anchorage regulations, and ports and waterways safety:
OPSAIL 2000, San Juan, PR; exclusion areas; comments due by 2-28-00; published 1-13-00

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
Airbus; comments due by 2-28-00; published 1-27-00
Bombardier; comments due by 3-2-00; published 2-1-00
EMBRAER; comments due by 3-3-00; published 2-2-00
Empresa Brasilera de Aeronautica S.A.; comments due by 3-3-00; published 2-2-00
McDonnell Douglas; comments due by 3-3-00; published 1-18-00
Raytheon; comments due by 2-28-00; published 1-12-00
Class D airspace; comments due by 3-3-00; published 1-18-00
Class E airspace; comments due by 2-29-00; published 1-5-00

TRANSPORTATION DEPARTMENT

Federal Highway Administration

Transportation operations and management:
Dedicated short range communications in intelligent transportation systems commercial vehicle operations; comments due by 2-28-00; published 12-30-99

TREASURY DEPARTMENT

Internal Revenue Service

Procedure and administration:
Entity classification changes; special rule for foreign eligible entities; comments due by 2-28-00; published 11-29-99

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 2130/P.L. 106–172

Hillory J. Farias and Samantha Reid Date-Rape Drug Prohibition Act of 2000 (Feb. 18, 2000)

Last List February 16, 2000

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to www.gsa.gov/archives/publaws-l.html or send E-mail to **listserv@www.gsa.gov** with the following text message:

SUBSCRIBE PUBLAWS-L
Your Name.

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.